

**STATE OF VERMONT
DEPARTMENT OF LABOR**

Tammy Cochran

Opinion No. 31A-09WC

v.

By: Jane Gomez-Dimotsis
Hearing Officer

Northeast Kingdom Human Services

For: Patricia Moulton Powden
Commissioner

State File No. X-00726

RULING ON CLAIMANT'S REQUEST FOR COSTS AND ATTORNEY FEES

After a formal hearing in the above matter, the Commissioner issued its Opinion and Order on August 12, 2009. In it, the Commissioner determined that Claimant successfully had established her right to temporary total disability benefits for a disputed period after Defendant claimed she had reached end medical result, but denied her claims for permanent partial disability benefits, vocational rehabilitation and ongoing medical coverage for narcotic pain medications and anti-depressants.

Claimant has now submitted her request for an award of costs and attorney fees pursuant to 21 V.S.A. §678. Claimant has submitted evidence of costs totaling \$766.80. These costs all appear to be related to pursuit of the claim as a whole, and none can be attributed solely to one disputed issue or another. It is appropriate, therefore, to award all of the requested costs.

As for attorney fees, Claimant has submitted evidence of fees totaling \$13,432.50. In cases where a claimant has only partially prevailed, the Commissioner typically exercises her discretion to award fees commensurate with the extent of the claimant's success. *Hill v. CV Oil Co.*, Opinion No. 15-09WC (May 26, 2009). Here, I find it appropriate to award Claimant seventy-five percent of her fees, or \$10,074.38.

ORDER:

Defendant is hereby **ORDERED** to pay:

1. Costs totaling \$766.80; and
2. Attorney fees totaling \$10,074.38.

DATED at Montpelier, Vermont this 4th day of November 2009.

Patricia Moulton Powden
Commissioner

Appeal:

Within 30 days after copies of this opinion have been mailed, either party may appeal questions of fact or mixed questions of law and fact to a superior court or questions of law to the Vermont Supreme Court. 21 V.S.A. §§670, 672.