

1979 S.C. Op. Atty. Gen. 121 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-87, 1979 WL 29092

Office of the Attorney General

State of South Carolina

Opinion No. 79-87

June 29, 1979

***1 SUBJECT: Workmen's Compensation, Administrative Procedure**

Contested hearings held before the Industrial Commission pursuant to the Workmen's Compensation Law are 'contested cases' within the meaning of Act 176 of 1977, and therefore such hearings are subject to the administrative procedures set forth in the Act.

TO: James, J. Reid

Chairman

South Carolina Industrial Commission

QUESTION:

Are contested hearings held before the Industrial Commission pursuant to the Workmen's Compensation Law 'contested cases' within the meaning of Act 176 of 1977?

STATUTES AND CASES:

Article II, § 1(2), Act No. 176 of 1977. [Code of Laws of South Carolina \(1976\) §§ 1-23-310\(2\), 42-3-10, 42-3-180, 42-17-20, 42-17-40.](#)

DISCUSSION:

You have asked whether a contested hearing held before an individual Industrial Commissioner pursuant to the Workmen's Compensation Law is a 'contested case' within the meaning of Act 176 of 1977. It is the opinion of this Office that such a hearing is 'contested case' within the meaning of that Act.

Act 176 of 1977, commonly referred to as the Administrative Procedure Act, prescribes the procedures which must be followed by administrative agencies in the conduct of hearings before them. Such procedures only apply, however, to those proceedings which come within the definition of 'contested case' as set forth in the Act. Article II § 1(2) [[§ 1-23-310\(2\) South Carolina Code \(1976\)](#)] defines the term 'contested case' as . . . 'a proceeding, including but not restricted to rate making, price fixing, and licensing, in which the legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.' The foregoing definition essentially sets forth two elements which must be satisfied before a proceeding becomes a contested case. First, the law must require that a hearing be held before an agency. Second, the legal rights, duties or privileges of a party must be determined by the agency after the hearing. When these elements are met, a proceeding becomes a 'contested case' and the administrative procedures of the Act are applicable.

The purpose of the Workmen's Compensation Law [[§§ 42-1-10 et seq. South Carolina Code \(1976\)](#)] is to prescribe the right to, and the amount and the manner of payment of, benefits for persons who are injured by accidents arising out of and in the course of their employment. The South Carolina Industrial Commission ([§ 42-3-10](#)) is the agency which is

charged with the responsibility of determining all questions arising under the law. § 42-3-180. Where an employer and an injured employee or his dependents cannot reach an agreement in regard to compensation under the Law, either party may apply to the Commission for a hearing into matters at issue and for a ruling thereon. Immediately upon receipt of the application, the Commission must schedule a hearing. § 42-17-20. The Commission or any of its individual members shall hear the parties and determine the issues in dispute in a summary manner. § 42-17-40.

*2 It seems clear from the foregoing that such hearings before the Industrial Commission are 'contested cases' within the meaning of the Administrative Procedure Act. The Workmen's Compensation Law Plainly requires the Commission to determine after a hearing, those issues upon which employees and their employers cannot agree. Moreover, it is the responsibility of the Commission to determine what rights, if any, the employee has to receive benefits and in what amounts, and/or what duties, if any, the employer has to pay benefits.

CONCLUSION:

It is therefore the opinion of this Office that contested hearings held before the Industrial Commissions pursuant to the Workmen's Compensation Law are 'contested cases' within the meaning of Act 176 of 1977, and therefore such hearings are subject to the administrative procedures set forth in the Act.

L. Kennedy Boggs

Assistant Attorney General

1979 S.C. Op. Atty. Gen. 121 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-87, 1979 WL 29092