

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2004-0091, Appeal of Gabriel Salas, the court on January 14, 2005, issued the following order:

The employee, Gabriel Salas, appeals an order of the compensation appeals board (board) establishing December 2, 2002, as the effective date for his award of temporary total disability benefits. We reverse and remand.

“We will overturn the board’s decision only for errors of law, or if we are satisfied by a clear preponderance of the evidence before us that the decision is unjust or unreasonable.” Appeal of Woodmansee, 150 N.H. 63, 66 (2003); see RSA 541:13 (1997). “The board’s factual findings are prima facie lawful and reasonable.” Appeal of Woodmansee, 150 N.H. at 66.

Having reviewed the record, we conclude that the issue before us is whether the carrier properly ceased paying benefits in October 2001. We further conclude that the issue has been properly preserved for our review.

The employee suffered an injury on March 13, 2001; the carrier denied the claim in April 2001. The employee appealed; a department of labor hearing officer denied his claim after a hearing in July 2001. The employee then appealed to the board. In March 2002, the board found the employee had suffered a work-related injury on March 13, 2001, that caused his disability. In reaching its decision, the board considered the claimant’s condition as of July 2001, the date of the hearing before the department of labor hearing officer. Appeal of Staniels, 142 N.H. 794, 796-97 (1998). Contrary to the carrier’s assertion, we do not construe the board’s decision as containing an end date for eligibility for any compensation. The employee had been found eligible for benefits; unless he returned to work, the employer could not simply cease paying benefits without a further order. See, e.g., RSA 281-A:48 (1999).

Reversed and remanded.

DALIANIS, DUGGAN and GALWAY, JJ., concurred.

**Eileen Fox,
Clerk**

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