

T. A. v. Ann Johnston and Charlotte Rancourt dba Karma Farm (April 4, 2007)

**STATE OF VERMONT
DEPARTMENT OF LABOR**

T. A.

Opinion No. 05R-07WC

v.

Phyllis Severance Phillips, Esq.
Hearing Officer

Ann Johnston and Charlotte
Rancourt, dba Karma Farm

Patricia Moulton Powden
Commissioner

State File No. W-01682

RULING ON DEFENDANTS' MOTION FOR RECONSIDERATION

Defendants move for reconsideration of the Commissioner's Order denying their Motion for Summary Judgment. Defendants argue that the Commissioner failed to consider certain aspects of the decision rendered by the Washington Superior Court in prior litigation between the parties. Defendants contend that once considered, these aspects compel the conclusion that Claimant is collaterally estopped from pursuing her workers' compensation claim.

The gist of Defendants' request for reconsideration is that the Washington Superior Court rejected any possible scenario whereby Claimant could be considered Defendants' employee on any of the dates of injury she alleged when it dismissed her counterclaims for damages and lost wages. This is not necessarily true. The Court made no specific findings as to Claimant's employment status with Defendants after October 2004. It could have dismissed Claimant's counterclaims for any number of reasons, either legal or factual. Without more information as to the exact grounds upon which the Superior Court based its dismissal, there simply is no way to know whether genuine issues of material fact still exist and if so, whether Claimant is collaterally estopped from pursuing them in this forum. Under these circumstances, summary judgment against Claimant is not appropriate.

Defendant also argues that the Commissioner was wrong to consider any hypothetical employment scenarios that conflict with the arguments Claimant has propounded in support of her claim in her various filings with the Department. This argument also lacks merit. In reaching a decision, the Commissioner's job is to interpret the law and apply it to the facts. She certainly is not bound by either party's view as to how best to do so. *Kruse v. Town of Westford*, 145 Vt. 368, 374 (1985).

Defendant has not presented any new facts to justify the entry of summary judgment against Claimant. Its Motion for Reconsideration, therefore, is **DENIED**.

Dated at Montpelier, Vermont this 4th day of April 2007.

Patricia Moulton Powden
Commissioner