

Court of Appeals, State of Michigan

ORDER

Zora Turner v Colson Associates

Docket No. 277569

LC No. 06-000036

E. Thomas Fitzgerald
Presiding Judge

Henry William Saad

Deborah A. Servitto
Judges

In lieu of granting leave to appeal, this Court orders pursuant to MCR 7.205(D)(2) that the March 22, 2007, order of the Workers' Compensation Appellate Commission is VACATED in part. We find no evidence on the record supporting the WCAC's finding that plaintiff was "last subjected to the conditions that resulted in the [plaintiff's] disability," that is the work activities involving the lateral arm motion and use of the rake, on May 11, 2004. MCL 418.301(1); *Mudel v Great Atlantic & Pacific Tea Co*, 462 Mich 691, 709-710; 614 NW2d 607 (2000). The evidence establishes that as of that date plaintiff could no longer tolerate the pain, but she continued working for defendant in some undescribed capacity until she was taken off work sometime before July 30, 2004. The record contains insufficient evidence to make a finding regarding a specific date of injury. Therefore, this matter is REMANDED for purposes of obtaining a complete record and making factual findings regarding the date of plaintiff's injury pursuant to MCL 418.301(1). MCL 418.861a(12).

The application for leave to appeal is otherwise DENIED for lack of merit in the grounds presented.

This Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 30 2007

Date

Sandra Schultz Mengel
Chief Clerk