

23308/23309

STATEMENT OF LEGAL ISSUES

1. Whether the Department erred in determining Harlan is entitled to permanent and total disability benefits under the odd-lot test.

The Department held that Harlan met his prima facie showing that he is "obviously unemployable and not employable" and that the Appellants failed to meet their burden to show employment was available so that Harlan is entitled to permanent, total disability benefits.

2. Whether the Department erred in determining that Estes is responsible for all treatment provided to Harlan for his upper back, neck, and shoulder from 1990 and forward.

The Department held that Estes is responsible for all of Harlan's medical treatment for the upper back, neck, and shoulder from 1990 and forward.

3. Whether the Department erred in determining which employer was responsible for Harlan's total disability benefits.

Utilizing impairment ratings assigning a 5% rating for the injury associated with Triple R and 10% rating for the injury associated with Estes; the Department held that Triple R was responsible for one-third (1/3) and Estes for two-thirds (2/3) of Harlan's permanent total disability benefits.