

WORKMEN'S COMPENSATION COMMISSION:

ATTORNEYS AT LAW:

To represent a claimant before the
commission one must be a member of
the Bar.

May 34, 1933 ^{5/29}



Hon. Edgar C. Nelson, Chairman,
Workmen's Compensation Commission
Jefferson City, Missouri

My dear Mr. Nelson:

We are in receipt of your letter of May 18th which is
as follows:

"Will you please give our Commission
your opinion regarding one who is not
a member of the Bar practicing before
the Commission as a representative of
a claimant. As far as I know there is
nothing to prevent this but we would
be pleased to have your opinion."

The Workmen's Compensation Act, Chapter 28, R. S. Mo.
1929, confers among other things, statutory rights and privi-
leges upon the commission for the hearing of disputes and the
regulating of compensation of employees injured in the course
of their employment.

Section 3339 R. S. Mo. 1929 provides:

"The commission or any of its members
shall hear in a summary proceeding the
parties at issue and their representatives
and witnesses and shall determine the
dispute. All evidence introduced at any
such hearings shall be reported by a com-
petent stenographer appointed by the com-
mission. The award, together with a state-
ment of the findings of fact, rulings of
law and any other matters pertinent to the
question at issue, shall be filed with the
record of proceedings, and a copy of the
award shall immediately be sent by registered
United States mail to the parties in dis-
pute and the employer's insurer."

Section 3349 R. S. Mo. 1929 reads as follows:

"All proceedings before the commission or any commissioner shall be simple, informal and summary, and without regard to the technical rules of evidence, and no defect or irregularity therein shall invalidate the same. Except as herein otherwise provided, all such proceedings shall be according to such rules and regulations as may be adopted by the commission."

Section 3321 R. S. Mo. 1929, among other things provides the following:

"* * * The commission may allow as lien on the compensation, reasonable attorney's fees for services in connection with proceedings for compensation if such services are found to be necessary and may order the amount thereof paid to the attorney in a lump sum or in installments. All attorney's fees for services in connection with this chapter shall be subject to regulation by the commission and shall be limited to such charges as are fair and reasonable and the commission shall have jurisdiction to hear and determine all disputes concerning the same."

No where in Chapter 28, R. S. Mo. 1929, do we find where a claimant may be represented before the commission by one not a member of the bar.

Section 3339 supra, would intimate that the claimant might be represented thus, as the statute says that the commission shall hear in a summary proceeding the parties at issue and their representatives. And Section 3349, supra, provides the proceedings shall be according to rules and regulations as may be adopted by the commission. However, we are constrained to say that one who is not a member of the bar may represent a claimant before the commission.

The question then would be whether or not one appearing before the compensation commission for a claimant would be practicing law.

Section 11692 R. S. Mo. 1929, defines practice of law and

law business as follows:

"The 'practice of the law' is hereby defined to be and is the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court of record, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies. The 'law business' is hereby defined to be and is the advising or counseling for a valuable consideration of any person, firm, association, or corporation as to any secular law or the drawing or the procuring of or assisting in the drawing for a valuable consideration of any paper, document or instrument affecting or relating to secular rights or the doing of any act for a valuable consideration in a representative capacity, obtaining or tending to obtain or securing or tending to secure for any person, firm, association or corporation any property or property rights whatsoever."

Section 11693 R. S. Mo. 1929, provides a penalty for one to engage in the practice of law or do law business without being admitted to the bar.

We again call your attention to Section 11692, supra, wherein the practice of law is defined to be the appearance as an advocate in a representative capacity in connection with proceedings pending before any committee or commission constituted by law or having authority to settle controversies. The Workmen's Compensation Commission has authority to settle controversies and is a commission constituted by law, and any person, in our opinion, who in a representative capacity appears for a claimant before the commission would be deemed to be practicing law. It must therefore follow, that if the appearing before the commission is practicing law, then those practicing law must have a license or be admitted to practice before the bar.

We are substantiated further in our belief that a person appearing for a claimant before the commission should be an attorney at law in view of Section 3321, supra, relative to attorney's fees

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and the establishing of a lien on the compensation of claimant for services thus rendered. And further, in that a claimant would have rights to be preserved, if he be aggrieved by the decision of the commission, through the procedure of appeal or review.

In the case of Woods v. American Coal & Ice Co. et al. 25 S. W. (2d) 144, the St. Louis Court of Appeals in writing its opinion held the following:

" * * Our courts have held that the findings and award of the commission have the force and effect of the verdict of a jury, and in the same way become the basis for a court judgment, etc., (citing cases) * * * Privitt v. Jewett (Mo. App.) 235 S. W. 139, provided that there is substantial and competent evidence to sustain such findings, (cases cited) * * *"

It is thus seen that substantial evidence is necessary even though the hearings are simple, informal and summary, and without regard to the technical rules of evidence.

We are therefore of the opinion, as above intimated, that no one except a member of the bar may practice before the commission as a representative of a claimant.

Yours very truly,

JAMES L. HORNOSTEL,
Assistant Attorney General.

APPROVED _____
Attorney General.

JLH:MM