

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
PANAMA CITY DISTRICT OFFICE

Claimant:)	OJCC Case No. 10-010214LAR
Willie Cutchins)	Accident date: 11/16/2009
)	Judge: Laura Roesch
vs.)	
)	Attorney for Claimant:
Employer:)	Karla Hart, Esquire
Jackson County Sheriff's Office)	
)	Attorney for Employer/Carrier:
Carrier:)	Jason Taylor, Esquire
Florida League of Cities, Inc.)	

ORDER ADDRESSING EMPLOYER/CARRIER'S MOTION TO COMPEL ADDITIONAL
TESTING FOR CLAIMANT'S RE-EMPLOYMENT ASSESSMENT AND
CLAIMANT'S MOTION TO COMPEL REPORT

Upon proper notice, an evidentiary hearing was held on **January 22, 2013** before the undersigned Judge of Compensation Claims in Panama City, Bay County, Florida regarding the Employer/Carrier's Motion to Compel Additional Testing for Claimant's Re-Employment Assessment, as filed herein on December 3, 2012 and the Claimant's response thereto, as filed herein on December 13, 2012. Attorney Jason Taylor appeared on behalf of the Employer/Carrier. Attorney Karla Hart appeared on behalf of the Claimant. Having heard argument of counsel and being otherwise fully advised in the premises, I find as follows:

1. The Claimant has attended a re-employment interview with Bill England, who has been retained to provide rehabilitation services in the above matter. The Employer/Carrier asserts that a series of vocational aptitude exams are necessary in order to complete the re-employment assessment. The Claimant asserts that what the Employer/Carrier is really seeking is a vocational assessment. The Claimant argues that the Employer/Carrier has asserted its entitlement to a re-employment assessment pursuant to Section 440.491(4)(b) and that now, the Employer/Carrier is attempting to obtain information that falls under the definition of vocational evaluation. In reliance on Eckert v. Publix Supermarkets, Inc., 783 So.2d 1187 (Fla. 1st DCA 2001), Claimant asserts that only the Division of Workers' Compensation is authorized to conduct a training and education screening to determine whether an employee should be referred

for a vocational evaluation.

2. Having considered the Employer/Carrier's Motion and supporting documentation as well as the Claimant's Response and the respective arguments of counsel, relevant case law and statutory authority, I reject Claimant's argument, finding Eckert inapplicable to the case at bar. See, Douglas v. Florida Power and Light, Inc., 921 So.2d 750, (Fla. 1st DCA 2006). As noted in Douglas, section 440.15(1)(e)1 was amended in 2003 to delete the phrase "pursuant to s. 440.491," which the court in Eckert had specifically relied on in concluding that only the Division of Workers' Compensation had the authority to schedule a vocational evaluation of a particular claimant. In addition, the statute now provides an Employer/Carrier with the "right to conduct vocational evaluations or testing by the employer's or carrier's chosen rehabilitation advisor or provider." § 440.15(1)(e)1., Fla. Stat. (2004). The Employer/Carrier's motion is therefore granted.

3. Regarding the Claimant's Motion to Compel Re-Employment Assessment Report, the motion is granted. The Employer/Carrier shall provide a copy of the Re-Employment Assessment as prepared by Mr. England, within 10 days of completion of the assessment.

DONE AND ORDERED in Panama City, Bay County, Florida.



Laura Roesch

Laura Roesch
Judge of Compensation Claims
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THIS IS TO CERTIFY that the foregoing order was entered herein and electronically served to counsel for the parties, this 4th day of February 2013.

/s/ L. Hickman
Deputy Clerk

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