

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR HENNEPIN COUNTY

In the Matter of the Claim of
Dr. Greg Olson for Relocation Benefits

**ORDER ON HENNEPIN
COUNTY'S MOTION FOR
SUMMARY DISPOSITION**

The above-entitled matter is before Administrative Law Judge Manuel J. Cervantes (ALJ). On June 14, 2010, the ALJ issued an Order on Motion for Summary Disposition. In that Order, Dr. Greg Olson's (Claimant) Motion for Summary Disposition in this matter by was denied. Hennepin County (the other party to this proceeding) had not filed a cross motion. As part of the Order, the ALJ invited the parties to address any further issues that remain for hearing, or for Hennepin County to file a Motion for Summary Disposition.

On July 1, 2010, Hennepin County filed a Motion for Summary Disposition. No responsive filing was received from the Claimant. No further pleadings were filed and the ALJ determined that no oral argument was needed regarding this matter. The motion record closed with the end of the period for filing a response, July 15, 2010.

Rick Sheridan, Assistant Hennepin County Attorney, appeared for Hennepin County. Kirk A. Schnitker and Jon W. Morphew, Schnitker & Associates, appeared for the Claimant.

Based upon the pleadings filed by the parties and for the reasons set out in the following Memorandum,

IT IS HEREBY ORDERED:

- (1) That Hennepin County's Motion for Summary Disposition is GRANTED.
- (2) That this Order constitutes the final decision in this proceeding, as provided for in Minn. Stat. §§ 14.62, subd. 4. and 117.52, subd. 4.

Dated: August 5, 2010

s/Manuel J. Cervantes

MANUEL J. CERVANTES
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 117.52, subd. 4, this Order constitutes a final decision. Any person aggrieved by this decision may seek judicial review pursuant to Minn. Stat. §§ 14.63 to 14.69.

MEMORANDUM

Claimant appealed Hennepin County's decision regarding the amount of relocation benefits paid arising from the condemnation of property by Hennepin County for highway right-of-way. The issue presented in the Claimant's motion for summary disposition was whether the claimed advertising expense was allowable as moving expenses or whether that expense was properly categorized as a business re-establishment expense. The latter category is capped at \$50,000, and Claimant had received that amount from Hennepin County in this proceeding.

The parties presented the Claimant's motion for summary disposition under stipulated facts. In the Order issued on June 14, 2010, the ALJ stated:

The Administrative Law Judge concludes that Hennepin County properly treated the expenses sought to be recovered as allowable reestablishment expenses under 49 C.F.R. 24.304 and Minn. Stat. § 117.52, subd. 1a. Further, Hennepin County was correct in determining that these claimed expenses are not appropriately considered a moving and related expense pursuant to 49 C.F.R. 24.301(g)(13). As Claimant has received his maximum allowable amount for reestablishment expenses under 49 C.F.R. 24.304 and Minn. Stat. § 117.52, subd. 1a, Hennepin County appropriately denied Claimant's request for the television advertising expenses.

In the June 14, 2010 Order, the ALJ noted that there appeared to be no issue remaining for hearing. Since Hennepin County had not filed a cross-motion for summary disposition at that time, there was no motion for relief pending.

On July 1, 2010, Hennepin County filed a motion for summary disposition, relying on the stipulated facts, pleadings filed in connection with the prior motion, and the ALJ's June 14, 2010 Order. Specifically, Hennepin County requested that summary disposition be granted affirming the County's denial of Claimant's request for reimbursement of the costs of the production of a television commercial under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended ("URA"), and the Minnesota Uniform Relocation Act, Minn. Stat. §§ 117.50-117.56 ("MURA").

Motion Standard

Hennepin County has moved for summary disposition. Summary disposition is the administrative equivalent of summary judgment.¹ Summary disposition is appropriate when there is no genuine dispute about the material facts, and one party must necessarily prevail when the law is applied to those undisputed facts.² When considering a motion for summary disposition, the decision maker must view the facts in the light most favorable to the non-moving party, in this case, Claimant.³ The moving party carries the burden of proof and persuasion to establish that no genuine issues of material fact exist.⁴ The non-moving party cannot rely upon general statements or allegations, but must show the existence of specific material facts which create a genuine issue.⁵

Conclusion

Hennepin County has shown that it paid the maximum allowable cost for reestablishment expenses and the claimed costs are not a “moving and related expense” under 49 C.F.R. 24.301(g)(13). The Claimant has not submitted any evidence to suggest that any genuine issue of material fact remains for hearing. Under the Stipulated Facts and the June 14, 2010, ALJ Order, there is no issue remaining for hearing. Hennepin County has shown that it is entitled to a ruling in its favor as a matter of law.

M. J. C.

¹ *Pietsch v. Mn. Bd. of Chiropractic Examiners*, 683 N.W.2d 303, 306 (Minn. 2004).

² *Sauter v. Sauter*, 70 N.W. 2d 351, 353 (Minn. 1955).

³ *Ostendorf v. Kenyon*, 347 N.W. 834 (Minn. Ct. App. 1984), *Carlisle v. City of Minneapolis*, 437 N.W. 2d 712, 715 (Minn. Ct. App. 1988).

⁴ *Theile v. Stich*, 425 N.W. 2d 580, 583 (Minn. 1988).

⁵ *Murphy v. Country House, Inc.*, 307 Minn. 344, 351-52, 240 N.W. 2d 507, 512 (Minn. 1976).