

COMMONWEALTH OF MASSACHUSETTS

**DEPARTMENT OF
INDUSTRIAL ACCIDENTS**

BOARD NO.: 026203-04

Pedro Ferreira
Forrest Homes of Massachusetts
Granite State Insurance Co.

Employee
Employer
Insurer

REVIEWING BOARD DECISION

(Judges Horan, Costigan and Fabricant)

APPEARANCES

Charles E. Berg, Esq., for the employee at hearing and on appeal
James N. Ellis, Esq., for the employee on appeal
Diane Cole Laine, Esq., for the insurer

HORAN, J. In Ferreira v. Forrest Homes of Massachusetts, 22 Mass. Workers' Comp. Rep. ____ (June 18, 2008), we affirmed an administrative judge's denial and dismissal of the employee's claim, with prejudice, due to the unjustified failure of the employee and his attorneys to appear on the date set for the § 11A hearing. We further found the employee's attorneys had violated § 14(1)¹ by filing and pursuing the appeal of the judge's hearing decision without reasonable grounds. We retained jurisdiction of the case for the sole purpose of determining "the whole cost of the proceedings" due under § 14(1).

As requested, insurer's counsel has provided us with an affidavit of the fees and costs incurred by the insurer in defense of the appeal. We have reviewed the affidavit and find no reason to question the \$2,420.10 amount claimed. The employee's attorneys have not responded or otherwise challenged this amount within the allotted time.

¹ General Laws c. 152, § 14(1), provides, in pertinent part:

If any . . . administrative law judge determines that any proceedings have been brought . . . by an employee or counsel without reasonable grounds, the whole cost of the proceedings shall be assessed against the employee or counsel, whomever is responsible.

Therefore, pursuant to § 14(1), the employee's attorneys shall pay to the insurer a penalty in the amount of \$2,420.10.

So ordered.

Mark D. Horan
Administrative Law Judge

Patricia A. Costigan
Administrative Law Judge

Bernard W. Fabricant
Administrative Law Judge

Filed: **September 4, 2008**