

DAVID J. WARD, Employee v. FLOORS PERFECT, Employer, PENN
NATIONAL INSURANCE, Carrier

No. 339A07

FILED: 11 APRIL 2008

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 183 N.C. App. 541, 645 S.E.2d 109 (2007), affirming in part, reversing in part, and remanding an opinion and award filed on 28 October 2005 by the North Carolina Industrial Commission. Heard in the Supreme Court 17 March 2008.

Lennon & Camak, PLLC, by George W. Lennon, S. Neal Camak, and Michael W. Bertics, for plaintiff-appellant.

Young Moore and Henderson P.A., by Zachary C. Bolen, for defendant-appellees.

PER CURIAM.

Conclusions of Law 1 and 2 contained in the Industrial Commission's 28 October 2005 opinion and award are supported by competent evidence but are inconsistent, and the Court of Appeals inappropriately attempted to resolve the inconsistency in its decision. The Industrial Commission is best suited to resolve this discrepancy. See *Harrell v. Harriet & Henderson Yarns*, 314 N.C. 566, 574-575, 336 S.E.2d 47, 52 (1985). Thus, we reverse the decision of the Court of Appeals and remand to that court with instructions to further remand this matter to the Industrial Commission for entry of a new opinion and award determining whether plaintiff has undergone a change of condition affecting wage earning capacity pursuant to N.C.G.S. § 97-47.

REVERSED AND REMANDED.