



**TENNESSEE BUREAU OF WORKERS' COMPENSATION CLAIMS**  
**IN THE COURT OF WORKERS' COMPENSATION CLAIMS**  
**AT MURFREESBORO**

<b>ALEXIS BASHAM,</b>	)	<sup>2023-05-0474</sup> <b>Docket No. 20203-05-0474</b>
<b>Employee,</b>	)	
<b>v.</b>	)	
	)	
<b>SPB HOSPITALITY, LLC d/b/a</b>	)	<b>State File No. 50877-2021</b>
<b>LOGAN'S ROADHOUSE,</b>	)	
<b>Employer,</b>	)	
<b>And</b>	)	
	)	
<b>LIBERTY INS. CORP.,</b>	)	<b>Judge Dale Tipps</b>
<b>Carrier.</b>	)	

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**ORDER DENYING MOTION TO COMPEL COMPLIANCE**

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The Court issued an Expedited Hearing Order on May 11, 2023, requiring Logan's to pay past and continuing temporary total disability benefits. Logan's complied with the order but discontinued the ongoing temporary total disability payments at the end of June. Ms. Basham filed a Motion to Compel Compliance with Court Order and for Sanctions, and Logan's filed a response opposing the motion. The motion will be decided without a hearing. Tenn. Comp. R. & Regs. 0800-02-21-18(2)(a) (February, 2022).

The primary issue in the expedited hearing was whether Ms. Basham could receive temporary disability benefits when she had recovered from her physical injuries but still required psychiatric treatment. The parties disputed the applicability of Tennessee Code Annotated section 50-6-207(1)(E), which says an employee is "conclusively presumed to be at maximum medical improvement when the treating physician ends all active medical treatment and the only care provided is for the treatment of pain or for a mental injury that arose primarily out of a compensable physical injury."

The specific question was how to apply section 207(1)(E) to a mental injury involving both physical injuries *and* sudden or unusual stimulus. The Court determined that it does not apply to a mental injury occurring concurrently with a physical injury, so long as it arises primarily out of the incident itself and not the physical injury. It held Ms.

Basham was likely to prove that her mental injury arose primarily out of the assault itself and not the physical injuries. Therefore, section 207(1)(E) did not apply, and Ms. Basham was entitled to temporary total disability benefits past the maximum medical improvement date for her physical injuries.

The current motion involves another part of the same section. Tennessee Code Annotated section 50-6-207(1)(D) provides:

An employee claiming a mental injury . . . shall be conclusively presumed to be at maximum medical improvement upon the earliest occurrence of the following:

- (i) At the time the treating psychiatrist concludes the employee has reached maximum medical improvement; or
- (ii) One hundred four (104) weeks after the date of injury in the case of mental injuries where there is no underlying physical injury.

Logan's contends it properly terminated Ms. Basham's temporary disability benefits because one hundred four weeks have elapsed since the date of her accident and she had "no underlying physical injury." Ms. Basham argues that section 50-6-207(1)(D)(ii) does not require her mental injury to arise *from* the physical injury but merely "along with" it.

Thus, the question to be decided is the meaning of "underlying." Is any physical component sufficient to negate section 50-6-207(1)(D)(ii)? Or does "underlying" mean the mental injury must arise out of the physical injury? The Court finds Ms. Basham's proposed interpretation unpersuasive.

The central focus when interpreting any statute is to "ascertain and give effect to the intention or purpose of the legislature as expressed in the statute." Unless the language is ambiguous, a court must derive legislative intent "from the natural and ordinary meaning of the statutory language within the context of the entire statute without any forced or subtle construction that would extend or limit the statute's meaning." *In re Adoption of A.M.H.*, 215 S.W.3d 793, 808 (Tenn. 2007).

Consideration of the legislative intent behind section 207(1)(D)(ii) is unnecessary because the provision is unambiguous. Had the legislature wished to exclude mental injuries occurring concurrently or incidentally with physical injuries, it could have said so.

Instead, it chose "underlying" to describe the relationship with the physical injury. The natural and ordinary meaning of "underlying" is a cause or foundation of something else. In other words, the physical injury must be the primary cause of the mental injury to negate section 50-6-207(1)(D)(ii). It thus applies to Ms. Basham because, as the Court has already determined, she is likely to prove that her mental injury did not arise from her

physical injuries. Therefore, she is conclusively presumed to be at maximum medical improvement, at least at this interlocutory stage.

For these reasons, the Motion is denied.

**IT IS ORDERED.**

**ENTERED July 21, 2023.**



**Judge Dale Tipps**  
**Court of Workers' Compensation Claims**

**CERTIFICATE OF SERVICE**

I certify that a copy of this Order was sent as indicated on July 21, 2023.

Name	Certified Mail	Email	Service sent to:
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