

Remanded
Author: Scott
Concurring: Bolch
Dissenting: Sellers

NO. COA00-906

NORTH CAROLINA COURT OF APPEALS

Filed: 2 October 2001

LINDA S. DILLARD, Widow of
WALTER WAYNE DILLARD, Deceased,
Employee,
Plaintiff

v.

From the North Carolina
Industrial Commission
I.C. No. 706202

MERCHANTS, INCORPORATED,
Employer;

SAFECO INSURANCE,
Carrier,
Defendants

Appeal by defendants from opinion and award filed 23 March 2000 by the Full Commission of the North Carolina Industrial Commission. Heard in the Court of Appeals 6 June 2001.

Kennedy, Kennedy, Kennedy and Kennedy, L.L.P., by Harvey L. Kennedy and Harold L. Kennedy, III, for plaintiff-appellee.

Stiles Byrum & Horne, L.L.P., by Henry C. Byrum, Jr., for defendant-appellants.

PER CURIAM.

Pursuant to Rule 25 of the North Carolina Rules of Appellate Procedure, appellants' brief is deemed timely filed for good cause shown by appellants, and appellees' motion to dismiss is hereby denied.

This matter is remanded to the Full Commission for reconsideration of its opinion and award in light of this Court's decision in *Lovekin v. Lovekin & Ingle*, 140 N.C. App. 244, 535

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OF NORTH CAROLINA

S.E.2d 610, *disc. review denied*, 353 N.C. 266, 546 S.E.2d 105 (2000), which was filed on 3 October 2000, several months after the Full Commission's opinion and award in this matter, and clarifies the law as it relates to the issues raised by this appeal. Upon remand, the Full Commission is permitted to take such additional evidence as it deems necessary for a determination of this matter. See *Jenkins v. Public Service Co. of N.C.*, 134 N.C. App. 405, 518 S.E.2d 6 (1999).

Remanded.

Panel consisting of:

Judges WYNN, CAMPBELL and BIGGS.

Report per Rule 30(e).