

Opinion No. 43-4279

April 29, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Honorable Robert J. Doughtie, State Labor Commissioner, Santa Fe, New Mexico

In your letter dated April 27, 1943, you inclosed a letter to you setting forth certain facts relative to the Workmen's Compensation Act, as follows:

A man was injured and thereafter accepted other employment while his arm was still in a cast and without being released by a Doctor's certificate. On the date of accepting other employment his compensation, under the Workmen's Compensation Act, ceased to be paid.

You inquire whether this man is entitled to receive compensation under the Act, under such circumstances. You fail to state the seriousness of the injury, but I assume that it was merely a temporary disability. If the injured man is able to work and make as much as he did before the injury, payments under the Act should probably cease when he returns to work.

Section 57-919 of the 1941 Compilation provides that compensation shall be paid during temporary disability after the first seven days. The fact that this man accepted other employment is evidence that the temporary disability has ended. However, if he feels that he is entitled to receive compensation for a longer period he should file his claim in the District Court, pursuant to Section 57-913 of the 1941 Compilation, and let the matter be finally decided by the Court.

By C. C. McCULLOH,

First Asst. Atty. General