

## **Greenwalt, Alfred, Dec'd**

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### **APPEALABLE ORDERS**

#### **Ministerial orders**

A Department order issued pursuant to a superior court judgment is strictly ministerial and is not appealable to the Board. ...*In re Alfred Greenwalt, Dec'd*, BIA Dec., 43,070 (1973)

Scroll down for order.

**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS  
STATE OF WASHINGTON**

**IN RE: ALFRED GREENWALT, DEC'D            )     DOCKET NO. 43,070**  
**MILDRED GREENWALT, Widow-Petitioner )**  
**CLAIM NO. F-284487                        )     ORDER DENYING APPEAL**

Appeal filed by the widow-petitioner, Mildred Greenwalt, on August 31, 1973, from an order of the Department of Labor and Industries dated July 10, 1973, placing the decedent, Alfred Greenwalt, on the pension rolls effective January 5, 1971. Appeal **DENIED**.

**DECISION**

The Department's order of July 10, 1973 (which was subsequently corrected by Department order dated July 16, 1973, but in a manner immaterial to the issue presented herein), was issued pursuant to a judgment of the Superior Court for Thurston County dated May 29, 1973, in Cause No. 46769, which judgment expressly found that the decedent was permanently and totally disabled on January 5, 1971, and directed the Department to place the decedent upon the pension rolls.

The contention on this appeal is that the Department should have found the decedent to have been permanently and totally disabled as of August 21, 1969, the date the decedent filed his application to reopen his claim, and placed him on the pension rolls as of that date.

The contention fails to take cognizance of the nature of the pension adjudication in this case. The Court, not the Department, adjudicated the pension rights. The Department's order of July 10, 1973, from which the instant appeal is taken, was strictly a ministerial act on the part of the Department and was not an "order, decision or award" of the Department from which an appeal would lie to this Board. See RCW 51.52.050; 060. In effect, this appeal requests the Board to modify the Court's judgment on the pension issue. The Board, being a creature of statute, has only those powers conferred thereby. As previously indicated, this Board's statutory powers are limited to the review of "orders, decisions or awards" of the Department, and the Board in no way has the power to review or modify a judgment of the Superior Court.

Clearly the Board is without jurisdiction in the premises, and this appeal must accordingly be denied.

It is so ORDERED.

Dated this 27th day of September, 1973.

BOARD OF INDUSTRIAL INSURANCE APPEALS	
/s/	_____
PHILLIP T. BORK	Chairman
/s/	_____
R.H. POWELL	Member
/s/	_____
R.M. GILMORE	Member