

**IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT**

TIMOTHY DIEHL,	:	No. 231 WAL 2009
	:	
Petitioner	:	Petition for Allowance of Appeal from the
	:	Order of the Commonwealth Court
	:	
v.	:	
	:	
	:	
WORKERS' COMPENSATION APPEAL	:	
BOARD (IA CONSTRUCTION AND	:	
LIBERTY MUTUAL INSURANCE),	:	
	:	
Respondents	:	

ORDER

PER CURIAM

AND NOW, this 20th day of October 2009, the Petition for Allowance of Appeal is **GRANTED**. The issue rephrased for clarity, is:

Whether the Commonwealth Court erred in its interpretation of 77 P.S. § 551.2 by holding that respondents did not need to present evidence of job availability or earning power in order to change petitioner's disability status from total to partial, and whether the court's holding conflicts with Gardner v. WCAB (Genesis Health Ventures), 888 A.2d 758 (Pa. 2005).