2025 Case Law Update

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Paula Kay Brunner, Employee/Appellant, V. Post Consumer Brands and Gallagher Bassett Servs., Inc. Employer-Insurer/Respondents

W.C.C.A., January 15, 2025
No. WC24-6569

Introduction

The WCCA reversed the compensation judge's finding regarding an employee's ability to seek direct payment of medical expenses paid by a non-intervening third party for a compensable work-related injury.

Background

Employee developed a Gillette-type injury to her left shoulder. After an initial admission of work-relatedness, the employer denied the claim. Anthem Blue Cross Blue Shield paid medical bills but did not file a motion to intervene. At hearing, the parties stipulated that the medical treatment was reasonable and necessary.

The matter went to hearing on issues of compensability and whether Anthem's interest should be extinguished for failing to timely file a motion to intervene, or in the alternative, whether the employee could bring a direct claim for medical bills paid by Anthem.

The compensation judge found the injury compensable but ordered that the employee could not bring a direct claim for medical bills paid by Anthem.

Decision

The WCCA reversed the compensation judge's finding. It held that Minn. Stat. § 176.191, subd. 3 supersedes Minn. Stat. § 176.361, subd. 2 in cases where a third-party payor pays for medical expenses related to a compensable work injury. The court cited previous cases (*Polfliet v. Northern Lights Distrib*. and *Reich v. F&S Constr.)* supporting an employee's right to seek direct payment of medical expenses, regardless of a third-party payor's failure to intervene.

Conclusion

The court ordered the employer and insurer to reimburse Anthem for all payments made for the employee's left shoulder condition, including 12% annual interest. This decision upholds the principle that the burden of economic loss from work injuries should be placed upon industry, as intended by the Workers' Compensation Act.

Lynda Edelman-Hoecherl, Employee/Appellant v. Minneapolis Public Schools, Self-Insured Employer/Respondent

W.C.C.A., February 26, 2025
No. WC24-6579

Background

Employee suffered a work injury in 2016 while working for Minneapolis Public Schools. She underwent two lumbar surgeries and received various treatments. The employee filed a claim for permanent total disability (PTD) benefits, which was denied by the compensation judge. The employee appealed this decision.

Decision

The compensation judge's finding that the employee is not permanently and totally disabled was affirmed. The judge considered expert medical and vocational opinions, the employee's testimony, age, training, experience, and available work in her community. The employee was found not to be at maximum medical improvement (MMI), had not conducted a reasonable job search, and did not fully cooperate with the rehabilitation plan.

Permanent Total Disability

The court reviewed the criteria for permanent total disability, including the employee's physical disability, age, education, training, and experience. The employee met the minimum permanent partial disability threshold, but the analysis focused on her ability to obtain regular employment resulting in substantial income.

Job Search

The compensation judge found that the employee's job search was not diligent, based on vocational expert testimony and job search logs. The employee's ability to secure employment with Anoka-Hennepin School District supported the finding that a job search would not have been futile.

Permanent Nature of Condition

The compensation judge found that the employee had not yet reached MMI, adopting the opinion of the IME doctor. There was substantial evidence supporting the finding that the employee could reasonably anticipate improvement in her condition.

Insubstantial Income

The court concluded that the employee's earnings from her work at Anoka-Hennepin School District were not insubstantial, supporting the compensation judge's conclusion that the employee is not permanently totally disabled.

Jermain English, Employee/Respondent, v. Reliable Property Services and XL Insurance America Inc. Employer-Insurer/Appellants

W.C.C.A, March 12, 2025
No. WC24-6571

Background

The employee was hired for snow removal duties and was injured when he lost control of the Bobcat he was operating. He suffered a spinal cord injury and a subsequent gastric ulcer. The employer denied liability, claiming the employee's failure to wear a seatbelt while operating the Bobcat was a prohibited act. Employer also argued that snow removal was not seasonal employment.

Legal Issues

The court addressed several issues: 1) The credibility of the employee's testimony, 2) Whether the employee's actions constituted a prohibited act, 3) Whether the employee had reached maximum medical improvement (MMI), and 4) The calculation of the employee's weekly wage.

Findings

The court ruled that the employer failed to prove the prohibited act defense. Specifically, the Employer failed to meet their burden of proving that the Employee violated an expressly prohibited policy, failed to prove that any such policy existed, failed to prove that any such policy was unequivocally communicated to the employee, or any such policy was enforced against other employees. Employer offered no witnesses, statements or police reports at the hearing.

The prohibited act defense does not apply when an employee is engaged in a permissible act, but in a prohibited manner. The Employee was engaged in a permissible act – the very act for which he was hired. His failure to wear the harness, even if prohibited, does not render his operation of the Bobcat a prohibited act barring compensability of his injuries.

The court modified the calculation of the employee's weekly wage, applying the seasonal work multiplier and including earnings from a second job.

Conclusion

The court affirmed the compensation judge's decision to award workers' compensation benefits to the Employee, with modifications to the weekly wage calculation. The court noted that the AWW calculation was substantially in excess of the Employee’s earnings and may result in the appearance of unfairness. However, that is an issue for the legislature, not the court, to address.

Maati Grouni, Employee/Appellant, v. Transdev, Inc. and Sedgwick Claims Mgmt. Servs., Inc., Employer- Insurer/Respondents.

W.C.C.A., March 5, 2025
No. WC24-6577

Background

Employee (pro se) claimed a work injury due to sitting for long hours. Employee had a history of low back issues dating back to 2009, including a disc herniation and surgery. He experienced various episodes of back pain and treatments between 2009 and 2022.

Alleged 2022 Injury

Employee reported worsening low back pain attributed to sitting and driving at work on February 28, 2022. He received various treatments and diagnoses from multiple healthcare providers throughout 2022 and 2023. An IME performed in December 2022 concluded that the Employee's symptoms were related to his prior 2009 condition, not a new work injury.

Legal Proceedings

The Employee filed a claim petition for workers' compensation benefits. The Employer denied liability, and the case was heard before a compensation judge. The judge found that the Employee failed to meet his burden of proof to establish a work injury on February 28, 2022, and denied his claims for benefits and medical expenses. The court noted that the compensation judge's choice among conflicting expert opinions must be upheld unless the opinion lacked adequate factual foundation.

Decision

The compensation judge's decision was affirmed. The court found that substantial evidence supported the judge's finding that the Employee did not meet his burden of proof to show the alleged work injury was a substantial contributing cause to an aggravation or acceleration of his pre-existing low back condition. The judge's acceptance of the IME doctor's opinion over uncertain causation comments in other medical records was deemed reasonable.

Daniel Krumsieg, Employee/Appellant, v. Bloomington Metro Mitsubishi and Farm Bureau Prop. & Cas., Employer-Insurer/Respondents

W.C.C.A. February 24, 2025
No. WC24-6573

Background

Employee suffered a traumatic brain injury (TBI) from a workplace fall in 2007. He developed various health conditions post-injury, which he attributed to the TBI. The employer admitted liability for some conditions but disputed others. Employee also claimed a higher permanent partial disability (PPD) rating than what was being paid.

Spoilation of Evidence/Undisclosed Evidence

Employee (represented by Attorney Aaron Ferguson) argued that the IME doctor lacked foundation to base his opinion, and therefore, the compensation judge erred in adopting the IME doctor's opinion. Specifically, Employee argued that evidence (IME doctor's notes, prior drafts) was "destroyed" during litigation and this "spoilation of evidence" required a reversal of the compensation judge's opinion. The compensation judge found that there is no duty under the Workers' Compensation Act to retain all notes and that the Employee failed to show how the work product was relevant or its destruction prejudicial.

Medical Opinions

Multiple medical experts provided opinions on the causal relationship between the Employee's work injury and his obesity, high cholesterol, sleep apnea, and low testosterone. Opinions varied, with some experts finding connections and others not.

Legal Proceedings

The Employee filed a claim petition in 2019. A hearing was held in 2024, where the compensation judge found some conditions related to the work injury but not others. The judge also denied claims for additional PPD benefits.

Decision

The court affirmed the compensation judge's findings. It found substantial evidence supporting the lack of causal relationship between the work injury and the Employee's obesity, high cholesterol, sleep apnea, and low testosterone. The court also upheld the denial of additional PPD benefits and the decision not to impose sanctions for alleged spoliation of evidence.

Erin Lindsay, Respondent, v. Minneapolis Pub. Schs., Self-Insured Admin'd by Corvel Corp., Self-Insured Employer/Appellant

W.C.C.A. January 30, 2025
No. WC24-6567

Background

The Employee was participating in basketball practice with her students after school. At hearing, she testified that she received permission from the coach and the school's principal to participate. She suffered a complete tear of her ACL requiring surgical repair. The Employee regularly participated in extracurricular activities with students to build relationships and support the school's social emotional learning curriculum. The school encouraged such participation, and no waiver was required for these activities.

Legal Analysis

The court considered two main issues: whether the injury arose out of and in the course of employment, and whether it was barred by Minnesota Statute § 176.021, subdivision 9, which excludes injuries from voluntary recreational programs. The court affirmed the compensation judge's finding that the injury occurred in the course of employment, as it happened within a reasonable time after work hours, on school premises, and while the employee was engaged in activities that benefited her employer. The court also agreed that the statutory exclusion for recreational activities did not apply, as the basketball practice was not a recreational program sponsored for employee benefit, but rather an extension of the employee's teaching duties.

Conclusion

The Workers' Compensation Court of Appeals affirmed the compensation judge's decision to award benefits to the employee. The court rejected the self-insured employer's arguments, finding that the injury arose out of and in the course of employment and that the statutory exclusion for recreational activities did not apply in this case.

Petition to Vacate

Clarence Johnson V. Univ. Good Samaritan and Sentry Ins. Grp., (W.C.C.A. Jan. 10, 2025).

Clarence Johnson V. Skil-Tech, Inc., and United Wis. Ins. Co., Admin'd by United Heartland, (W.C.C.A. Jan. 15, 2025).

Clarence Johnson V. A Touch of Class Painting, Inc., and State Farm Ins. Cos., Admin'd by Sedgwick Claims Mgmt. Servs., Inc., (W.C.C.A. Feb. 7, 2025).

Background

Clarence Johnson has filed around 20 petitions to vacate his prior settlements with multiple employers. All have been denied or dismissed. He alleged fraud and substantial change in medical condition, and sought penalties and civil damages.

Employee provided no new evidence of fraud and relied on the same arguments that had been addressed in previous petitions. The court emphasized that the settlements were presumptively fair and reasonable as the Employee was represented by counsel at the time.

The court denied his claim for a substantial change in medical condition as well, stating that no new evidence had been provided.

The court found no basis for awarding penalties, as there was no evidence that the respondents failed to pay benefits. The court also noted that it lacks jurisdiction to award civil damages under Minn. Stat. § 176.82, as such claims must be brought in a civil action.

Conclusion

The court denied the petitions to vacate finding no good cause based on fraud or substantial change in medical condition. The court also rejected claims for penalties and civil damages. The decision notes that future repetitive petitions may result in the awarding of disbursements to the responding party.

No Provision for Court Appointed Counsel

Adam Strege v. Commercial Drywall and Federated Mutual Insurance Company, and Custom Drywall, and Opus Group, (Minn. 2025).

Employee's petition for rehearing pursuant to Minn. R. Civ. App. P. 140.01 was denied. His motion for appointment of counsel, filed after petition for rehearing was filed, was also denied, as there is no provision in the governing rules or statutes providing for court appointed counsel in appeals from the Workers' Compensation Court of Appeals.