

COMMONWEALTH COURT OF PENNSYLVANIA

Alex Hostina v. Workers' Compensation Appeal Board (Allied Chemical Corp., Brighthouse Life Insurance and Travelers Indemnity Company)

No. 546 C.D. 2017 (Pa. Commw. Ct. Feb. 22 2018) (Commonwealth Court of Pennsylvania 2018) · No. No. 546 C.D. 2017 · Decided February 22, 2018

SUMMARY

The Pennsylvania Commonwealth Court affirmed the Workers' Compensation Appeal Board's decision allowing Allied Chemical Corporation a disability pension offset against Alex Hostina's workers' compensation benefits. Because Hostina's injury predated Act 57, the court analyzed whether the pension payments were deferred compensation or payments made because of his inability to work. The court held that the credited evidence established the latter and that the workers' compensation judge adequately explained the factual and credibility determinations.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	James Gardner Colins, Senior Judge; Renée Cohn Jubelirer, Judge; Patricia A. McCullough, Judge
JURISDICTION	Pennsylvania
DECIDED	February 22, 2018
DOCKET	No. 546 C.D. 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant petitioned for review of the Workers' Compensation Appeal Board's order affirming a Workers' Compensation Judge's remand decision that allowed Employer a disability-pension offset against Claimant's workers' compensation benefits.
STANDARD OF REVIEW	The Court's scope of review was limited to determining whether constitutional rights were violated, an error of law occurred, or necessary findings of fact were supported by substantial evidence. The Workers' Compensation Judge is the ultimate fact finder and sole arbiter of credibility, and the Court does not reweigh evidence.
PRECEDENTIAL VALUE	unpublished and nonprecedential memorandum opinion

PARTIES

Alex Hostina v. Workers' Compensation Appeal Board, Allied Chemical Corp., Brighthouse Life Insurance, Travelers Indemnity Company

TOPICS

workers compensation

appellate procedure

standard of review

administrative law

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Employer was entitled to offset disability-pension payments against Claimant's workers' compensation benefits for an injury occurring before the enactment of Act 57.
2. Whether the Workers' Compensation Judge issued a reasoned decision supported by competent evidence and adequately explained the credibility determinations and resolution of conflicting evidence.
3. Whether the Workers' Compensation Appeal Board erred in affirming the Workers' Compensation Judge's decision.

HOLDINGS

1. For a claim involving an injury predating Act 57, an employer may receive a credit against workers' compensation benefits when the pension payments were made because of the claimant's inability to work and were not deferred compensation or an accrued benefit payable regardless of whether the disability was compensable. The evidence supported the finding that Employer's payments fell within that category, so Employer was entitled to the offset.
2. The Workers' Compensation Judge complied with the reasoned-decision requirement by identifying the evidence relied upon, explaining credibility determinations, and articulating the basis for resolving conflicting testimony. The Court would not reweigh the evidence or substitute its judgment for that of the fact finder.

KEY QUOTATIONS

"Our scope of review is limited to determining whether there has been a violation of constitutional rights, an error of law or whether necessary findings of fact are supported by substantial evidence." (at 2)

"Having found that Employer satisfied its burden of proving that the payments to Claimant were not compensation he was already entitled to but were due to his inability to work, the WCJ did not err in concluding that Employer was entitled to credit against workers' compensation benefits and the Board did not err in affirming the WCJ." (at 7)

FACTUAL BACKGROUND

Claimant sustained a work-related injury on October 5, 1983 and received workers' compensation benefits as well as disability-pension payments from Employer. Employer's pension department evidence established that Claimant applied for and received a disability pension because of his inability to work, that Employer fully funded the plan, and that the plan contained an offset provision for workers' compensation benefits. The Workers' Compensation Judge credited Employer's evidence and found that the pension payments were made in relief of Claimant's inability to labor rather than as deferred compensation or an accrued entitlement payable regardless of compensability.

PROCEDURAL HISTORY

The Workers' Compensation Judge concluded that Allied Chemical Corporation was entitled to a monthly disability-pension offset of \$529.13 against benefits paid from March 1, 1989, through December 19, 1995. The Workers' Compensation Appeal Board affirmed on April 6, 2017. The Commonwealth Court affirmed the Board.

DISPOSITION

affirmed

CASES CITED

- Hostina v. Workers' Compensation Appeal Board (Allied Signal, Inc.), 832 A.2d 1157 (Pa. Commw. Ct. 2003)
- City of Philadelphia v. Workers' Compensation Appeal Board (Grevy), 968 A.2d 830, 837 (Pa. Commw. Ct. 2009)
- Bufford v. Workers' Compensation Appeal Board (North American Telecom), 2 A.3d 548, 551 (Pa. 2010)
- Toborkey v. Workmen's Compensation Appeal Board (H.J. Heinz), 655 A.2d 636, 640-641 (Pa. Commw. Ct. 1995)
- Coker v. Workers' Compensation Appeal Board (Duquesne Light Company), 856 A.2d 257, 260 (Pa. Commw. Ct. 2004)
- Pocono Mountain School District v. Workers' Compensation Appeal Board (Easterling), 113 A.3d 909, 918 (Pa. Commw. Ct. 2015)
- Allegheny Ludlum Corp. v. Workers' Compensation Appeal Board (Bascovsky), 977 A.2d 61, 71 (Pa. Commw. Ct. 2009)
- Daniels v. Workers' Compensation Appeal Board (Tristate Transport), 828 A.2d 1043, 1051 (Pa. 2003)
- Dorsey v. Workers' Compensation Appeal Board (Crossing Construction Co.), 893 A.2d 191, 195 (Pa. Commw. Ct. 2006)
- Topps v. Workers' Compensation Appeal Board (Wickizer), 710 A.2d 1256, 1261 n.16 (Pa. Commw. Ct. 1998)