

COURT OF APPEALS OF OHIO, TENTH APPELLATE DISTRICT

State ex rel. Honda of Am., Mfg., Inc. v. Indus. Comm.

2017-Ohio-8972 (Ohio Ct. App. 10th Dist. 2017) · No. 16AP-19 · Decided December 12, 2017

SUMMARY

The Tenth District Court of Appeals granted a limited writ of mandamus in a dispute over an Industrial Commission award of permanent total disability compensation. The court held that the medical report relied upon by the commission was internally inconsistent and therefore did not constitute some evidence supporting the award. The matter was remanded to the commission for a new hearing and adjudication of the claimant's application.

CASE DETAILS

COURT	Court of Appeals of Ohio, Tenth Appellate District
WRITING FOR THE COURT	Brunner, J.; Brown, J.; Klatt, J.
JURISDICTION	Ohio
DECIDED	December 12, 2017
DOCKET	16AP-19
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Honda commenced an original mandamus action seeking to vacate the Industrial Commission's award of permanent-total-disability compensation to Ball. The matter was referred to a magistrate, whose decision recommended a limited writ; Ball objected, and the appellate court independently reviewed the record and adopted the magistrate's decision.
STANDARD OF REVIEW	Mandamus relief requires a clear legal right, a clear legal duty, and an abuse of discretion by the Industrial Commission. In this context, abuse of discretion is shown when the Commission's decision is rendered without some evidence supporting it. The court does not reweigh evidence or substitute its judgment for the Commission's judgment as factfinder.
PRECEDENTIAL VALUE	published
PARTIES	State ex rel. Honda of America, Mfg., Inc. v. Industrial Commission of Ohio, Clifford A. Ball

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QUESTIONS PRESENTED

1. Whether Dr. Renneker's medical report, consisting of an allegedly contradictory narrative report and physical-capacity evaluation, constituted some evidence supporting the Industrial Commission's permanent-total-disability award.
2. Whether Honda was entitled to a limited writ of mandamus requiring the Commission to vacate its reconsideration decision and conduct a new hearing and adjudication of Ball's permanent-total-disability application.

HOLDINGS

1. A medical report that is irreconcilably inconsistent with another document prepared by the same physician from the same examination does not constitute some evidence on which the Industrial Commission may rely. Dr. Renneker's report therefore could not support the Commission's finding that Ball was unable to perform sustained remunerative employment.
2. A work capacity of four or more hours per day constitutes sustained remunerative employment for purposes of permanent-total-disability compensation.
3. Honda established entitlement to a limited writ because the Commission's permanent-total-disability award was not supported by some evidence and was therefore contrary to law.

KEY QUOTATIONS

“The inconsistencies between the narrative report and the PCE form which Dr. Renneker prepared on December 18, 2014 following her examination of Ball, cannot be reconciled.” (¶ 22)

“We grant a limited writ of mandamus, ordering the commission to vacate its decision of December 9, 2015 denying reconsideration of the SHO's order of September 24, 2015, awarding PTD compensation, and in a manner consistent with this decision, hold a new hearing and thereafter enter a new order that adjudicates Ball's PTD application having corrected the deficiencies described herein.” (¶ 23)

FACTUAL BACKGROUND

Clifford A. Ball suffered a work-related lower-back injury while employed by Honda and later applied for permanent-total-disability compensation. The Commission awarded benefits based exclusively on Dr. Nancy Renneker's December 18, 2014 report. Although Renneker's narrative report stated that Ball was permanently and totally disabled from sustained remunerative employment, an accompanying physical-capacity evaluation

indicated that he could stand, walk, and sit for a combined four to five hours per workday and therefore could perform part-time work.

PROCEDURAL HISTORY

The Industrial Commission's staff hearing officer awarded Ball permanent-total-disability compensation based exclusively on Dr. Nancy Renneker's report, and the Commission denied Honda's motion for reconsideration. Honda filed an original action in mandamus. The magistrate concluded that Renneker's report was internally inconsistent and did not constitute some evidence supporting the award. The Court of Appeals overruled Ball's objections, adopted the magistrate's findings and conclusions, and granted a limited writ requiring a new hearing and order.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Industrial Commission must vacate its December 9, 2015 decision denying reconsideration of the staff hearing officer's permanent-total-disability award, hold a new hearing, and enter a new order adjudicating Ball's permanent-total-disability application in a manner consistent with the opinion and correcting the identified deficiencies.

CASES CITED

- State ex rel. Pressley v. Indus. Comm., 11 Ohio St. 2d 141 (1967)
- State ex rel. Burley v. Coil Packaging, Inc., 31 Ohio St. 3d 18 (1987)
- State ex rel. Lewis v. Diamond Foundry Co., 29 Ohio St. 3d 56 (1986)
- State ex rel. Elliott v. Indus. Comm., 26 Ohio St. 3d 76 (1986)
- State ex rel. Teece v. Indus. Comm., 68 Ohio St. 2d 165 (1981)
- State ex rel. Toth v. Indus. Comm., 80 Ohio St. 3d 360 (1997)
- State ex rel. Sheller-Chiles v. Indus. Comm., 10th Dist. No. 13AP-245, 2014-Ohio-313
- State ex rel. Speelman v. Indus. Comm., 73 Ohio App. 3d 757 (1992)
- State ex rel. Lopez v. Indus. Comm., 69 Ohio St. 3d 445 (1994)
- State ex rel. Taylor v. Indus. Comm., 71 Ohio St. 3d 582 (1995)
- State ex rel. M. Weingold & Co. v. Indus. Comm., 97 Ohio St. 3d 44, 2002-Ohio-5353
- State ex rel. Genuine Parts Co. v. Indus. Comm., 160 Ohio App. 3d 99, 2005-Ohio-1447 (10th Dist.)
- State ex rel. Honda of Am. Mfg., Inc. v. Indus. Comm., 10th Dist. No. 14AP-82, 2014-Ohio-5245
- State ex rel. Petermann LLC v. Ragle, 10th Dist. No. 11AP-556, 2012-Ohio-5659