

COMMONWEALTH COURT OF PENNSYLVANIA

Angela Phillips v. Workers’ Compensation Appeal Board (TTech Holdings, Inc., Old Republic Insurance Company, and Gallagher Bassett Services)

Phillips · No. No. 27 C.D. 2020 · Decided July 21, 2020

SUMMARY

The Pennsylvania Commonwealth Court affirmed an order upholding a workers’ compensation judge’s approval of TTech Holdings, Inc.’s petition to enforce a compromise and release agreement concerning its subrogation lien from a third-party recovery. The court held that the agreement entitled the employer to one-third of the gross third-party settlement and did not require the employer to pay a pro rata share of attorney’s fees and costs. The court also denied the employer’s request for appellate counsel fees and costs.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Anne E. Covey; Mary Hannah Leavitt, President Judge; Anne E. Covey, Judge; Ellen Ceisler, Judge
JURISDICTION	Pennsylvania
DECIDED	July 21, 2020
DOCKET	No. 27 C.D. 2020
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant petitioned for review of the portion of the Workers’ Compensation Appeal Board’s order affirming the Workers’ Compensation Judge’s decision granting the employer’s Petition to Review Compensation Benefit Offset.
STANDARD OF REVIEW	The Court determines whether constitutional rights were violated, errors of law were committed, or necessary findings of fact were supported by substantial competent evidence.
PRECEDENTIAL VALUE	Unreported memorandum opinion; precedential value not stated in the provided text.
PARTIES	Angela Phillips v. Workers’ Compensation Appeal Board, TTech Holdings, Inc., Old Republic Insurance Company, Gallagher Bassett

TOPICS

administrative law subrogation contract interpretation appellate procedure standard of review

PRACTICE AREAS

workers' compensation administrative law insurance contracts appellate procedure

QUESTIONS PRESENTED

1. Whether the employer was required to pay a pro rata share of attorney's fees and costs under Section 319 of the Workers' Compensation Act despite the Compromise and Release Agreement's lack of express language addressing attorney's fees.
2. Whether the employer was entitled to appellate counsel fees and costs under Pennsylvania Rule of Appellate Procedure 2744.

HOLDINGS

1. The employer was not required to pay a pro rata share of attorney's fees and costs from the third-party recovery because the approved Compromise and Release Agreement expressly entitled the employer to one-third of the gross third-party settlement or award, and the claimant did not establish grounds to set aside the agreement.
2. The employer was not entitled to appellate counsel fees and costs because the claimant's counsel's conduct was not obdurate or vexatious and the appeal was not deemed frivolous or taken solely for delay.

KEY QUOTATIONS

"Once approved, a valid compromise and release is final, conclusive and binding upon the parties." (4)

"Because Claimant has not argued, let alone shown, that the C&R Agreement should be set aside based on fraud, deception, duress or mutual mistake, Employer is not required to pay attorney's fees and costs in relation to the third-party award." (6)

FACTUAL BACKGROUND

The claimant and employer entered into a Compromise and Release Agreement resolving the claimant's workers' compensation claims. The agreement preserved the employer's subrogation rights and provided that the employer would accept one-third of any gross settlement or award from a related third-party action in satisfaction of its lien. After the claimant obtained a third-party recovery, the employer sought enforcement of that provision, and the claimant argued that the employer was required to pay a pro rata share of attorney's fees and costs under Section 319 of the Workers' Compensation Act.

PROCEDURAL HISTORY

A Workers' Compensation Judge approved the parties' Compromise and Release Agreement and later granted the employer's petition seeking enforcement of its agreement to receive one-third of any gross third-party settlement or award. The Board vacated the portion concerning distribution of the third-party recovery and counsel fees between the claimant and her attorney but affirmed the offset decision in all other respects. The Commonwealth Court affirmed the Board's order and denied the employer's request for appellate counsel fees and costs.

DISPOSITION

affirmed

CASES CITED

- Stepp v. Workers' Comp. Appeal Bd. (FairPoint Commc'ns, Inc.), 99 A.3d 598, 601 n.6 (Pa. Cmwlt. 2014)
- N. Penn Sanitation, Inc. v. Workers' Comp. Appeal Bd. (Dillard), 850 A.2d 795, 798-99 (Pa. Cmwlt. 2004)
- Smith v. Workers' Comp. Appeal Bd. (Consol. Freightways, Inc.), 111 A.3d 235 (Pa. Cmwlt. 2015)

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