

SUPREME COURT OF OHIO

State ex rel. Valley Interior Systems, Inc. v. Industrial Commission

118 Ohio St. 3d 418 (Ohio 2008) · Decided June 12, 2008

SUMMARY

The Ohio Supreme Court held that an employee’s termination did not constitute a voluntary abandonment of employment barring temporary total disability compensation where the employee did not receive notice that absence would result in immediate termination until after the relevant absence. The court affirmed the denial of the employer’s request for a writ of mandamus.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Pfeifer; Lundberg Stratton; O’Connor; O’Donnell; Lanzinger; Cupp
JURISDICTION	Ohio
DECIDED	June 12, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Valley Interior appealed as of right from the Franklin County Court of Appeals' denial of its request for a writ of mandamus challenging the Industrial Commission's award of temporary total disability compensation.
STANDARD OF REVIEW	Abuse of discretion review of the Industrial Commission's determination in a mandamus action.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Ohio
PARTIES	Valley Interior Systems, Inc. v. John F. Wood, Industrial Commission of Ohio

TOPICS

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QUESTIONS PRESENTED

1. Whether Wood's termination for missing work constituted a voluntary abandonment of his former position of employment that barred temporary total disability compensation.
2. Whether the Industrial Commission abused its discretion in finding that Wood could not have voluntarily abandoned his employment when he did not receive the employer's warning of immediate termination until after the missed workday.

HOLDINGS

1. An employee's voluntary abandonment of an employment position may preclude temporary total disability compensation, and a firing may be treated as a voluntary departure when the claimant engaged in misconduct that precipitated the termination.
2. Wood did not voluntarily abandon his former position by missing work on May 13 because he did not know, and could not be deemed to have tacitly accepted, that termination would be the consequence of his absence.

KEY QUOTATIONS

“Thus, while an employer may formalize the separation, the claimant is deemed to have initiated it when he or she chose to engage in the misconduct that precipitated the termination.” (¶ 9)

“This principle, however, requires that the consequence is one of which the claimant was, or should have been, aware.” (¶ 10)

FACTUAL BACKGROUND

John F. Wood, a drywall finisher, fractured his right elbow in a fall and later returned to Valley Interior in a light-duty position with work restrictions. He missed work sporadically, and Valley Interior sent a letter directing him to report for work on May 13, 2005, warning that failure to appear would be treated as voluntary abandonment. The letter was not delivered until May 14, after the required reporting date; when Wood contacted the employer, Valley Interior terminated him for excessive absenteeism. Wood subsequently sought temporary total disability compensation.

PROCEDURAL HISTORY

After Valley Interior terminated Wood for excessive absenteeism, Wood sought temporary total disability compensation. A district hearing officer determined that the termination did not constitute voluntary abandonment under *State ex rel. Louisiana-Pacific Corp. v. Industrial Commission*. A staff hearing officer affirmed on the ground that Wood did not timely receive the employer's warning letter. The Franklin County Court of Appeals denied Valley Interior's request for mandamus, and the Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Watts v. Schottenstein Stores Corp. (1993), 68 Ohio St. 3d 118, 623 N.E.2d 1202
- State ex rel. Louisiana-Pacific Corp. v. Industrial Commission (1995), 72 Ohio St. 3d 401, 650 N.E.2d 469
- State ex rel. Ashcraft v. Industrial Commission (1987), 34 Ohio St. 3d 42, 44, 517 N.E.2d 533
- State ex rel. Liposchak v. Industrial Commission (1995), 73 Ohio St. 3d 194, 196, 652 N.E.2d 753

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