

SUPREME COURT OF NORTH CAROLINA

Clark v. Wal-Mart, 360 N.C. 41

619 S.E.2d 491 (2005) · No. No. 321PA04 · Decided October 7, 2005

SUMMARY

The Supreme Court of North Carolina held that an employer's admission of compensability in a workers' compensation claim does not create a presumption of continuing disability. Because no Form 21, Form 26, or prior Industrial Commission disability award existed, the employee retained the burden of proving the existence and extent of disability, and the case was remanded for new findings and conclusions.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Lake, Chief Justice
JURISDICTION	North Carolina
DECIDED	October 7, 2005
DOCKET	No. 321PA04
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants appealed the North Carolina Industrial Commission's award of ongoing total and permanent disability benefits. The Court of Appeals affirmed, and the Supreme Court of North Carolina allowed discretionary review.
STANDARD OF REVIEW	Appellate review of an Industrial Commission award is generally limited to whether the findings of fact are supported by competent evidence and whether the conclusions of law are justified by the findings of fact.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of North Carolina
PARTIES	Wal-Mart, Insurance Company of the State of Pennsylvania v. Sandra J. Clark

TOPICS

workers compensation

judicial review of agency action

administrative law

appellate procedure

standard of review

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether an employer's admission of compensability and payment of ongoing workers' compensation benefits creates a presumption of continuing disability in favor of the employee.
2. Whether the Industrial Commission properly shifted the burden to defendants to prove that Clark was capable of returning to gainful employment.
3. Whether the case should be remanded for specific findings regarding the existence and extent of Clark's disability.

HOLDINGS

1. An employer's admission of compensability does not create a presumption of disability or continuing disability in favor of the employee. Such a presumption arises only when there is an executed Form 21, an executed Form 26, or a prior disability award from the Industrial Commission.
2. The employee bears the burden of proving the existence and extent of disability, including the inability to earn the same wages in the same or other employment and causation by the work-related injury.
3. The matter must be remanded to the Court of Appeals for further remand to the Industrial Commission to make new findings of fact and conclusions of law under the proper burden of proof.

KEY QUOTATIONS

"the law in North Carolina is well settled that an employer's admission of the "compensability" of a workers' compensation claim does not give rise to a presumption of "disability" in favor of the employee." (493)

"Otherwise, the burden of proving "disability" remains with plaintiff, even if the employer has admitted "compensability."" (493)

"Because the burden remained on plaintiff to prove [her] disability, the Commission was obligated to make specific findings regarding the existence and extent of any disability suffered by plaintiff." (494)

FACTUAL BACKGROUND

Sandra J. Clark, a Wal-Mart greeter, injured her lower back on 21 December 1998 while attempting to move a heavy display sled from a high shelf. The injury caused or significantly aggravated compression fractures at L1 and L2. Wal-Mart and its carrier admitted compensability and paid temporary total disability benefits, but no Form 21 or Form 26 agreement had been filed and no prior Industrial Commission disability award had been entered.

PROCEDURAL HISTORY

Clark sustained a work-related back injury, and defendants admitted compensability and paid temporary total disability benefits. After a deputy commissioner awarded ongoing benefits, the Full Commission affirmed and shifted the burden to defendants to prove Clark could return to gainful employment. The Court of Appeals affirmed on the ground that defendants' admission of compensability created a presumption of continuing disability. The Supreme Court reversed and remanded for new findings and conclusions applying the correct burden of proof.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals must further remand the case to the North Carolina Industrial Commission to find new facts and make new conclusions of law in accordance with the rule that Clark bears the burden of proving the existence and extent of her disability.

CASES CITED

- Hendrix v. Linn-Corriher Corp., 317 N.C. 179, 345 S.E.2d 374 (1986)
- McGill v. Town of Lumberton, 215 N.C. 752, 3 S.E.2d 324 (1939)
- Gallimore v. Marilyn's Shoes, 292 N.C. 399, 233 S.E.2d 529 (1977)
- Hilliard v. Apex Cabinet Co., 305 N.C. 593, 290 S.E.2d 682 (1982)
- Johnson v. Southern Tire Sales & Serv., 358 N.C. 701, 599 S.E.2d 508 (2004)
- Cialino v. Wal-Mart Stores, Inc., 156 N.C. App. 463, 577 S.E.2d 345 (2003)
- Parker v. Wal-Mart Stores, Inc., 156 N.C. App. 209, 576 S.E.2d 112 (2003)
- Gilberto v. Wake Forest Univ., 152 N.C. App. 112, 566 S.E.2d 788 (2002)
- Effingham v. Kroger Co., 149 N.C. App. 105, 561 S.E.2d 287 (2002)
- Sims v. Charmes/Arby's Roast Beef, 142 N.C. App. 154, 542 S.E.2d 277 (2001), disc. rev. denied, 353 N.C. 729, 550 S.E.2d 782 (2001)
- Royce v. Rushco Food Stores, Inc., 139 N.C. App. 322, 533 S.E.2d 284 (2000)
- Olivares-Juarez v. Showell Farms, 138 N.C. App. 663, 532 S.E.2d 198 (2000)
- Demery v. Converse, Inc., 138 N.C. App. 243, 530 S.E.2d 871 (2000)
- Brice v. Sheraton Inn, 137 N.C. App. 131, 527 S.E.2d 323 (2000)