

SUPREME COURT OF IDAHO

Fowble v. Snoline Express, Inc., 146 Idaho 70

190 P.3d 889 (2008) · No. No. 34151 · Decided August 1, 2008

SUMMARY

The Idaho Supreme Court affirmed the Industrial Commission's determination that Perry Joe Fowble was totally and permanently disabled as an odd-lot worker following a 2003 workplace injury. The court held that substantial and competent evidence supported the findings that the injury medically contributed to his disability and that he was not already an odd-lot worker before the injury, thereby supporting liability of the Idaho Industrial Special Indemnity Fund. The court denied attorney's fees but awarded costs to Fowble.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	W. Jones, Justice; Eismann, Chief Justice; Burdick, Justice; J. Jones, Justice; Horton, Justice
JURISDICTION	Idaho
DECIDED	August 1, 2008
DOCKET	No. 34151
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Idaho State Industrial Special Indemnity Fund appealed the Industrial Commission's decision finding Perry Fowble totally and permanently disabled as an odd-lot worker and apportioning liability between the employer's surety and ISIF.
STANDARD OF REVIEW	The Court freely reviews questions of law and reviews factual findings of the Industrial Commission only for substantial and competent evidence. The Court views facts and inferences in favor of the prevailing party and will not disturb the Commission's conclusions on the weight of the evidence unless clearly erroneous.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion
PARTIES	State of Idaho, Industrial Special Indemnity Fund v. Perry Joe Fowble

TOPICS

workers compensation

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Industrial Commission's finding that Fowble satisfied his medical burden of proof was clearly erroneous.
2. Whether the Industrial Commission's finding that Fowble was not an odd-lot worker before the 2003 accident was clearly erroneous.
3. Whether Fowble was entitled to attorney's fees under Idaho Appellate Rule 11.1.

HOLDINGS

1. The Commission's finding that Fowble met his medical burden of proof was supported by substantial and competent evidence and was not clearly erroneous.
2. The Commission's finding that Fowble was not an odd-lot worker before the 2003 accident was supported by substantial and competent evidence and was not clearly erroneous.
3. A worker's return to employment that is unsuitable does not, by itself, establish that the worker was already an odd-lot worker; the proponent must show that the return required a superhuman effort or otherwise prove odd-lot status under the governing doctrine.
4. Fowble was not entitled to attorney's fees because the appeal was not so unreasonable as to warrant sanctions under Idaho Appellate Rule 11.1.

KEY QUOTATIONS

“whether, but for the industrial injury, the worker would have been totally and permanently disabled immediately following the occurrence of that injury.” (190 P.3d at 894)

“If he can perform only services so limited in quality, quantity, or dependability that no reasonably stable market for those services exists, the worker is totally disabled.” (190 P.3d at 894)

FACTUAL BACKGROUND

Fowble, a former truck driver, sustained several prior injuries and then injured his left knee in a September 2003 work accident while unloading freight for Snoline Express. Following surgery and unsuccessful rehabilitation, he had permanent lifting restrictions, struggled to obtain employment despite submitting at least 100 applications, and was found by vocational evidence to have limited transferable skills and functional illiteracy. The Commission found that the 2003 injury combined with his preexisting impairments to render him totally and permanently disabled as an odd-lot worker, while finding that he had not been an odd-lot worker before the 2003 accident.

PROCEDURAL HISTORY

A Referee found Fowble totally and permanently disabled as an odd-lot worker and apportioned liability between the employer's surety and ISIF. The Industrial Commission upheld that determination. ISIF appealed to the Idaho Supreme Court. The Supreme Court affirmed the Commission's decision, denied attorney's fees, and awarded costs to Fowble.

DISPOSITION

affirmed

CASES CITED

- Stolle v. Bennett, 144 Idaho 44, 156 P.3d 545 (2007)
- Wheaton v. Industrial Special Indemnity Fund, 129 Idaho 538, 928 P.2d 42 (1996)
- Page v. McCain Foods, Inc., 145 Idaho 302, 179 P.3d 265 (2008)
- Kinney v. Tupperware Co., 117 Idaho 765, 792 P.2d 330 (1990)
- Urry v. Walker and Fox Masonry, 115 Idaho 750, 769 P.2d 1122 (1989)
- Politte v. Department of Transportation, 126 Idaho 270, 882 P.2d 437 (1994)
- Jensen v. City of Pocatello, 135 Idaho 406, 18 P.3d 211 (2000)
- Bybee v. State, Industrial Special Indemnity Fund, 129 Idaho 76, 921 P.2d 1200 (1996)
- Arnold v. Splendid Bakery, 88 Idaho 455, 401 P.2d 271 (1965)
- Reifsteck v. Lantern Motel & Cafe, 101 Idaho 699, 619 P.2d 1152 (1980)
- Dehlbom v. State, Industrial Special Indemnity Fund, 129 Idaho 579, 930 P.2d 1021 (1997)
- McCain Foods, Inc., 145 Idaho 302, 179 P.3d 265 (2008)

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