

SUPREME COURT OF KANSAS

CPI Qualified Plan Consultants, Inc. v. Kansas Department of Human Resources, 272 Kan. 1288

38 P.3d 666 (2002) · No. No. 86,799 · Decided January 25, 2002

SUMMARY

The Kansas Supreme Court held that CPI Qualified Plan Consultants, Inc., a successor employer formed to acquire its predecessor's business, was not subject to the Kansas Employment Security Law before the transfer because it had no employees or payroll at that time. Accordingly, the court applied K.S.A. 44-710a(b)(4) and affirmed the award of the predecessor's unemployment experience rating despite CPI's failure to apply within the 120-day period under subsection (b)(2).

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Abbott, J.; Brazil, Chief Judge Retired, assigned; Davis, J., not participating
JURISDICTION	Kansas
DECIDED	January 25, 2002
DOCKET	No. 86,799
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Kansas Department of Human Resources appealed the district court's reversal of an administrative hearing officer's decision denying CPI's request to transfer its predecessor's unemployment experience rating. The Kansas Supreme Court accepted the case by transfer under K.S.A. 20-3018(c).
STANDARD OF REVIEW	When the facts are undisputed, the applicability of a statute to those facts is a question of statutory construction. Statutory interpretation is reviewed de novo, although an agency's interpretation may receive judicial deference under the doctrine of operative construction and is persuasive but not binding.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Kansas
PARTIES	Kansas Department of Human Resources, et al. v. CPI Qualified Plan Consultants, Inc., Delaware

TOPICS

unemployment benefits administrative law statutory interpretation judicial review of agency action
appellate procedure

PRACTICE AREAS

employment law administrative law unemployment benefits statutory interpretation appellate procedure

QUESTIONS PRESENTED

1. Whether CPI was an employing unit subject to the Kansas Employment Security Law before the date it acquired its predecessor's assets.
2. Whether K.S.A. 44-710a(b)(4), rather than the 120-day application requirement in K.S.A. 44-710a(b)(2), governed CPI's entitlement to a newly computed contribution rate based on its predecessor's transferred experience rating factors.
3. Whether applying K.S.A. 44-710a(b)(4) rendered K.S.A. 44-710a(b)(2) and (b)(3) meaningless or otherwise conflicted with the legislative purpose of the statutory scheme.

HOLDINGS

1. CPI was not subject to the Act before the transfer because it had no payroll or employees in Kansas until it acquired the predecessor's business.
2. K.S.A. 44-710a(b)(4) applied to CPI and required a newly computed contribution rate based on the predecessor's transferred experience-rating factors.
3. Applying subsection (b)(4) did not render subsections (b)(2) and (b)(3) meaningless or contravene the legislative purpose of the statutory scheme.

KEY QUOTATIONS

“We hold the district court correctly found that K.S.A. 44-710a(b)(4) established two methods for determining an employer's rate of contribution. The district court did not err when it found that the successor employer-plaintiff in this case falls within the scope of K.S.A. 44-710a(b)(4); thus, the district court's reversal of the agency's decision and award to CPI of the experience rating previously held by its predecessor was not erroneous.” (272 Kan. at 1298)

FACTUAL BACKGROUND

CPI acquired substantially all of the assets and business of its predecessor in 1998. CPI had no payroll or employees in Kansas before the acquisition and became subject to the Kansas Employment Security Law only after acquiring the predecessor's business. CPI did not request transfer of the predecessor's zero-percent unemployment experience rating within the statutory 120-day period because it was unaware of the requirement and relied on an IRS revenue procedure. The administrative hearing officer denied the request, while the district court ordered KDHR to award CPI the predecessor's experience rating.

PROCEDURAL HISTORY

CPI's application to transfer its predecessor's unemployment experience rating was denied by an administrative hearing officer as untimely under K.S.A. 44-710a(b)(2). CPI sought judicial review, and the district court reversed the agency decision, concluding that K.S.A. 44-710a(b)(4) applied and required awarding CPI the predecessor's experience rating. KDHR appealed, and the case was transferred to the Kansas Supreme Court.

DISPOSITION

affirmed

CASES CITED

- DSG Corp. v. Shelor, 239 Kan. 312, 315, 720 P.2d 1039 (1986)
- Matjasich v. Kansas Department of Human Resources, 271 Kan. 246, 250-51, 21 P.3d 985 (2001)
- State v. Engles, 270 Kan. 530, 533, 17 P.3d 355 (2001)
- Centro Management, Inc. v. Kansas Department of Human Resources, 237 Kan. 369, 370, 699 P.2d 524 (1985)
- In re Marriage of Killman, 264 Kan. 33, 42-43, 955 P.2d 1228 (1998)