

SUPREME COURT OF WYOMING

In the Matter of the Worker's Compensation Claim of April D. Ludwig v. State of Wyoming, ex rel., Wyoming Workers' Safety and Compensation Division, 2004 WY 34

86 P.3d 875 (Wyo. 2004) · No. No. 03-113 · Decided March 30, 2004

SUMMARY

The Supreme Court of Wyoming affirmed the denial of April D. Ludwig’s claim for permanent partial disability benefits. The court held that substantial evidence supported the administrative finding that Ludwig had not actively sought suitable employment as required by Wyo. Stat. § 27-14-405(h), and rejected her arguments concerning agency rules and due process.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Lehman, Justice; Hill, C.J.; Golden, J.; Lehman, J.; Kite, J.; Voigt, J.
JURISDICTION	Wyoming
DECIDED	March 30, 2004
DOCKET	No. 03-113
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the district court's affirmance of an Office of Administrative Hearings decision denying permanent partial disability benefits.
STANDARD OF REVIEW	Under Wyo. Stat. Ann. § 16-3-114, when both parties present evidence and the dispute concerns factual findings, the court reviews the entire record for substantial evidence and does not substitute its judgment for that of the agency. Questions concerning interpretation and application of the Wyoming Worker's Compensation Act are reviewed de novo or plenary, without deference to the agency.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion
PARTIES	April D. Ludwig v. State of Wyoming, ex rel., Wyoming Workers' Safety and Compensation Division

TOPICS

workers compensation

judicial review of agency action

administrative law

standard of review

statutory interpretation

PRACTICE AREAS

workers compensation

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QUESTIONS PRESENTED

1. Whether substantial evidence supported the OAH's determination that Ludwig failed to prove she had actively sought suitable employment as required for permanent partial disability benefits.
2. Whether the OAH improperly relied on agency rules concerning active job searches rather than the language of Wyo. Stat. Ann. § 27-14-405(h).
3. Whether consideration of Ludwig's degenerative back condition violated due process because she lacked notice that the issue would be considered.

HOLDINGS

1. The OAH's determination that Ludwig failed to prove she had actively sought suitable employment was supported by substantial evidence.
2. The issue was not properly preserved because it was not raised before the OAH, and in any event the OAH's decision was supported by the statutory language requiring an active search for suitable employment.
3. The OAH did not deny Ludwig due process because the determinative issue was whether she actively sought suitable employment, and Ludwig had adequate notice of and fully litigated that issue.

KEY QUOTATIONS

"If the agency's decision is supported by substantial evidence, we cannot properly substitute our judgment for that of the agency and must uphold the findings on appeal." (¶ 6)

"We do not afford any deference to the agency's determination, and we will correct any error made by the agency in either interpreting or applying the law." (¶ 7)

FACTUAL BACKGROUND

Ludwig injured her back at work in October 1999 and later received permanent partial impairment ratings. She applied for six jobs in 2000, two in 2001, and six in 2002, but the 2002 contacts occurred during the eight days immediately preceding her application for permanent partial disability benefits, and she submitted no actual applications for those jobs. A vocational evaluation stated that she was not currently looking for work, while a labor-market survey identified suitable jobs within her limitations, experience, and training.

PROCEDURAL HISTORY

The Wyoming Workers' Safety and Compensation Division denied Ludwig's application for permanent partial disability benefits on the ground that she was not actively seeking work. The Office of Administrative Hearings

upheld the denial, and the district court affirmed. The Wyoming Supreme Court affirmed the district court and the OAH.

DISPOSITION

affirmed

CASES CITED

- Serda v. State ex rel. Workers' Safety and Compensation Division, 2002 WY 38, 42 P.3d 466
- Newman v. State ex rel. Workers' Safety and Compensation Division, 2002 WY 91, 49 P.3d 163
- State ex rel. Workers' Safety and Compensation Division v. Jensen, 2001 WY 51, 24 P.3d 1133
- State ex rel. Workers' Safety and Compensation Division v. Garl, 2001 WY 59, 26 P.3d 1029
- Collicott v. State ex rel. Workers' Safety and Compensation Division, 2001 WY 35, 20 P.3d 1077
- Vaughan v. State ex rel. Workers' Compensation Division, 2002 WY 131, 53 P.3d 559
- Hermosillo v. State ex rel. Workers' Safety and Compensation Division, 2002 WY 175, 58 P.3d 924
- Johnson v. State ex rel. Workers' Safety and Compensation Division, 2001 WY 48, 23 P.3d 32
- Joyner v. State, 2002 WY 174, 58 P.3d 331
- Robinson v. Pacificorp, 10 P.3d 1133 (Wyo. 2000)
- WW Enterprises, Inc. v. City of Cheyenne, 956 P.2d 353 (Wyo. 1998)

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