

SUPREME COURT OF VERMONT

Merriam v. AIG Claims Services, Inc.

183 Vt. 568 (2008) · Decided January 28, 2008

SUMMARY

The Vermont Supreme Court reviewed the dismissal of a workers' compensation enforcement action against AIG Claims Services, concluding that the superior court lacked subject-matter jurisdiction because the bills and supporting documentation had not been properly submitted and the interim order did not establish a definite amount due. Although subsequent payments did not moot the appeal because the plaintiff still sought attorney's fees, the court held that she was not entitled to fees because she had not prevailed in the enforcement action and had not shown that it caused the payments. The court affirmed the dismissal.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Toor, J.
JURISDICTION	Vermont
DECIDED	January 28, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from dismissal of a workers' compensation enforcement action for lack of subject-matter jurisdiction; the defendant moved to dismiss the appeal as moot, and the plaintiff sought attorney's fees and costs incurred in the enforcement action.
STANDARD OF REVIEW	The court reviewed the superior court's dismissal for lack of subject-matter jurisdiction and the legal entitlement to attorney's fees.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Priscilla Merriam v. AIG Claims Services, Inc.

TOPICS

workers compensation attorney fees subject matter jurisdiction ripeness appellate procedure

PRACTICE AREAS

workers compensation employment law civil procedure appellate procedure remedies

QUESTIONS PRESENTED

1. Whether the appeal was moot after AIG paid the medical expenses, interest, and benefits sought before the Commissioner, where Merriam continued to seek attorney's fees incurred in the enforcement action.
2. Whether the superior court had subject-matter jurisdiction over an enforcement action under 21 V.S.A. § 675(a) before the claimant submitted bills and legible supporting documentation and before the amount owed was determined.
3. Whether Merriam was entitled to attorney's fees under a statutory prevailing-party theory or the catalyst theory for an enforcement action that was dismissed as premature and did not produce judicial relief.

HOLDINGS

1. The appeal was not moot because Merriam's unresolved claim for attorney's fees incurred in the enforcement action presented a live controversy.
2. The enforcement claim was not ripe and the superior court lacked subject-matter jurisdiction because the bills and supporting documentation had not been submitted to AIG before the action was filed, so the amounts were not yet past due under the governing workers' compensation rule.
3. Merriam was not entitled to attorney's fees incurred in the enforcement action because she did not prevail in that action, did not obtain judicial relief, and failed to show that the action was a necessary and important causal factor in AIG's payments.

KEY QUOTATIONS

“The clear import of this rule is that a bill is not “past due” under § 675 until such bills and documentation have been submitted.” (183 Vt. at 571; ¶ 13)

“As neither circumstance is present here, plaintiff is not entitled to the fees incurred in her futile enforcement action.” (183 Vt. at 572; ¶ 22)

FACTUAL BACKGROUND

The Commissioner of Labor and Industry issued an interim order directing AIG to pay interim indemnity benefits and medical bills arising from Merriam's work-related lower-back injury. The order did not specify the exact amount owed or the proper payee, and Merriam did not submit bills and supporting documentation to AIG before filing the superior-court enforcement action. After the action was filed and later dismissed, Merriam provided documentation, the Commissioner issued a final award, and AIG paid the medical expenses, interest, and the fees awarded in the workers' compensation proceeding.

PROCEDURAL HISTORY

The superior court dismissed Merriam's enforcement action under V.R.C.P. 12(h)(3), concluding that the claim was not within its subject-matter jurisdiction because the Commissioner had not reduced the insurer's liability to a definite amount and the required bills and documentation had not been submitted. While the appeal was pending, the Commissioner held a formal hearing, awarded the claimed medical expenses, fees, and costs, and AIG paid the medical bills, interest, and the fees ordered by the Commissioner. The Supreme Court of Vermont

held that the appeal remained live as to attorney's fees incurred in the enforcement action, but affirmed the dismissal and denial of those fees.

DISPOSITION

affirmed

CASES CITED

- In re House Bill 88, 115 Vt. 524, 529, 64 A.2d 169, 172 (1949)
- Muskrat v. United States, 219 U.S. 346, 361 (1911)
- Doria v. University of Vermont, 156 Vt. 114, 117, 589 A.2d 317, 319 (1991)
- Killington, Ltd. v. State, 164 Vt. 253, 260, 668 A.2d 1278, 1283 (1995)
- Kirchner v. Giebnik, 155 Vt. 351, 353-354, 584 A.2d 1120, 1121-1122 (1990)
- Hewitt v. Helms, 482 U.S. 755, 760-761 (1987)
- Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources, 532 U.S. 598, 603 n.5, 605-606 (2001)
- Harsch Properties, Inc. v. Nicholas, 2007 VT 70, ¶ 11, 182 Vt. 196, 932 A.2d 1045
- Fletcher Hill, Inc. v. Crosbie, 2005 VT 1, ¶ 5, 178 Vt. 77, 872 A.2d 292
- Ortiz de Arroyo v. Barcelo, 765 F.2d 275, 282 (1st Cir. 1985)
- Hennigan v. Ouachita Parish School Board, 749 F.2d 1148, 1152-1153 (5th Cir. 1985)