

SUPREME COURT OF OHIO

State ex rel. Lampkins v. Dayton Malleable, Inc.

45 Ohio St. 3d 14 (Ohio 1989) · Decided August 16, 1989

SUMMARY

The Ohio Supreme Court held that medical reports from non-examining physicians did not constitute "some evidence" supporting the Industrial Commission's denial of temporary total disability compensation. The court affirmed the directive to vacate the denial order but reversed the directive requiring an award, remanding for the commission to determine eligibility and identify supporting evidence.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Sweeney, J.; Holmes, J.; Wright, J.; H. Brown, J.; Resnick, J.; Douglas, J.
JURISDICTION	Ohio
DECIDED	August 16, 1989
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mandamus review of an Industrial Commission order denying temporary total disability compensation. The Supreme Court of Ohio reviewed an appellate court judgment that directed the Commission to vacate its denial and to award compensation.
STANDARD OF REVIEW	In mandamus, the court asks whether the Industrial Commission abused its discretion; where the record contains some evidence supporting the Commission's findings, mandamus will not lie. The court reviewed whether the Commission's order was supported by some evidence.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential.
PARTIES	Dayton Malleable, Inc. v. State ex rel. Lampkins

TOPICS

- judicial review of agency action
- agency adjudication
- administrative law
- workers compensation
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Walker and Walsh reports constituted some evidence supporting the Industrial Commission's denial of temporary total disability compensation.
2. Whether the appellate court could order the Commission to award temporary total disability compensation merely because the evidence supporting the denial was insufficient.

HOLDINGS

1. The Walker report was not some evidence because it contained no express or implied indication that Walker considered or accepted the findings of the examining physicians.
2. The Walsh report was not some evidence because it did not show that the medical reports were reviewed and considered and did not address the claimant's ability to return to his former position of employment.
3. A lack of evidence supporting the denial of temporary total disability benefits cannot automatically be treated as some evidence supporting an award of those benefits.

KEY QUOTATIONS

"Where the record contains "some evidence" to support the commission's findings, there has been no abuse of discretion and mandamus will not lie." (14)

"Therefore, a lack of evidence supporting a denial of temporary total disability benefits cannot automatically translate into some evidence supporting an award of such benefits." (17)

FACTUAL BACKGROUND

The Commission relied expressly on reports from non-examining physicians Walker and Walsh in denying temporary total disability compensation. Walker stated that he saw no reason related to the allowed injury why the claimant could not return to usual and customary duties, but did not indicate that he considered or accepted the examining physicians' findings. Walsh referred to information from only three physicians despite reports from six physicians being on file, and did not address whether the claimant could return to his former position of employment.

PROCEDURAL HISTORY

The Industrial Commission denied compensation in a June 27, 1986 order. An appellate court directed the Commission to vacate that order and ordered an award of temporary total disability compensation for the period from September 1, 1981 through February 1984. The Supreme Court affirmed the directive to vacate the denial, reversed the mandatory award, and remanded to the Commission for a new determination supported by identified evidence.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Industrial Commission was directed to determine whether the appellee qualifies for temporary total disability compensation and to identify the evidence supporting its finding.

CASES CITED

- State ex rel. Burley v. Coil Packing, Inc., 31 Ohio St. 3d 18, 508 N.E. 2d 936 (1987)
- State ex rel. Wallace v. Industrial Commission, 57 Ohio St. 2d 55, 386 N.E. 2d 1109 (1979)
- State ex rel. Hughes v. Goodyear Tire & Rubber Co., 26 Ohio St. 3d 71, 498 N.E. 2d 459 (1986)
- State ex rel. Ramirez v. Industrial Commission, 69 Ohio St. 2d 630, 433 N.E. 2d 586 (1982)