

COLORADO COURT OF APPEALS, DIVISION III

Mountain States Telephone and Telegraph Co. v. Industrial Commission of the State of Colorado and Karletta K. Clark

637 P.2d 401 (Colo. App. 1981) · No. No. 80CA1243 · Decided August 20, 1981

SUMMARY

The Colorado Court of Appeals reviewed an Industrial Commission decision awarding full unemployment compensation benefits to an employee discharged for excessive absenteeism. The court held that illness, even if not necessarily disabling, may constitute a physical inability to perform work under Colorado law, while recognizing that minor illnesses may warrant only a reduced award. The court affirmed because the Commission's factual findings were supported by substantial evidence.

CASE DETAILS

COURT	Colorado Court of Appeals, Division III
WRITING FOR THE COURT	Van Cise; Berman; Kelly
JURISDICTION	Colorado
DECIDED	August 20, 1981
DOCKET	No. 80CA1243
DISPOSITION	affirmed
PROCEDURAL POSTURE	The employer sought review of an Industrial Commission order awarding the employee full unemployment compensation benefits after her discharge for excessive absenteeism.
STANDARD OF REVIEW	The Commission's factual findings are conclusive on review when supported by substantial evidence.
PRECEDENTIAL VALUE	Published Colorado Court of Appeals opinion; precedential value is not otherwise specified in the source.
PARTIES	Mountain States Telephone and Telegraph Company v. Industrial Commission of the State of Colorado, Karletta K. Clark

TOPICS

unemployment benefits

administrative law

judicial review of agency action

statutory interpretation

employment law

PRACTICE AREAS

employment law

administrative law

unemployment benefits

QUESTIONS PRESENTED

1. Whether incidental illnesses causing excessive absenteeism can constitute a physical inability to perform work under section 8-73-108(4)(j), thereby entitling a discharged employee to a full unemployment-benefit award.
2. Whether the Industrial Commission's finding that Clark's illnesses constituted a physical inability to perform her work was supported by substantial evidence.

HOLDINGS

1. Illness that is not necessarily disabling may constitute a physical inability to perform work under section 8-73-108(4)(j). Thus, an employee discharged for excessive absenteeism caused by illness may receive a full unemployment-benefit award when the illness physically prevented the employee from working.
2. The Commission's finding that Clark's illnesses constituted a physical inability to perform her work was supported by substantial evidence and was conclusive on review.

KEY QUOTATIONS

"The purpose of unemployment compensation legislation is to assure "that each eligible individual who is unemployed through no fault of his own shall be entitled to receive a full award of benefits." (402)

"Accordingly, the language of § 8-73-108(4)(j) is sufficiently broad that illness which is not necessarily disabling can constitute a physical inability to perform the work." (403)

FACTUAL BACKGROUND

Mountain States maintained attendance guidelines under which an employee could be discharged for nine absences or four occurrences within a twelve-month period. Clark was absent approximately seventeen days in twelve occurrences, with absences attributed to illnesses and other health-related conditions, including pregnancy-related symptoms, child illness, bedrest, and swollen feet. The employer discharged her for excessive absenteeism, and the Commission found that her absences were primarily caused by health problems that physically prevented her from working.

PROCEDURAL HISTORY

Mountain States discharged Clark for excessive absenteeism. The Industrial Commission found that her absences were primarily caused by health problems and awarded her full unemployment benefits under section 8-73-108(4)(j), rather than reduced benefits under section 8-73-108(5)(x). The Colorado Court of Appeals reviewed the Commission's order and affirmed.

DISPOSITION

affirmed

CASES CITED

- Colorado State Judicial Department v. Industrial Commission, 630 P.2d 102 (Colo. App. 1981)
- Michals v. Industrial Commission, 40 Colo. App. 5, 568 P.2d 108 (1977)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/colorado-colorado-court-of-appeals-division-iii/1981/mountain-states-telephone-and-telegraph-co-v-industrial-fz42u1a0>