

SUPREME COURT OF SOUTH DAKOTA

Owens v. F.E.M. Electric Association, Inc.

2005 SD 35 (2005) · No. No. 23155 · Decided March 9, 2005

SUMMARY

The Supreme Court of South Dakota affirmed the dismissal of Robert Owens's workers' compensation claim as time-barred under SDCL 62-7-35. The court held that the insurer's written notice sufficiently communicated denial of coverage and triggered the two-year limitations period, rather than the three-year period under SDCL 62-7-35.1. The court also held that Owens had not established a qualifying change in condition under SDCL 62-7-33.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Gienapp, Circuit Judge; Konenkamp, Justice; Zinter, Justice; Gilbertson, Chief Justice; Meierhenry, Justice; Sabers, Justice
JURISDICTION	South Dakota
DECIDED	March 9, 2005
DOCKET	No. 23155
DISPOSITION	affirmed
PROCEDURAL POSTURE	Owens appealed the circuit court's affirmance of a summary judgment entered by a South Dakota Department of Labor Administrative Law Judge in a workers' compensation proceeding.
STANDARD OF REVIEW	Summary judgment is reviewed de novo on statute-of-limitations issues when there is no genuine dispute of material fact and only the application of law is at issue. The evidence is viewed in the light most favorable to the nonmoving party, and summary judgment is appropriate only when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published opinion
PARTIES	Robert Owens, employee v. Federated Rural Electric Insurance Corp., insurer, F.E.M. Electric Association, Inc., employer

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QUESTIONS PRESENTED

1. Whether the insurer's June 25, 1999, letter provided sufficient written notice of denial to trigger the two-year statute of limitations under SDCL 62-7-35.
2. Whether Owens established a change in condition under SDCL 62-7-33 that entitled him to reopen his workers' compensation claim.

HOLDINGS

1. The June 25, 1999, letter sufficiently notified Owens that the insurer denied further coverage for claims arising from the October 16, 1998, accident. The notice triggered the two-year limitations period, and Owens's request for a hearing was time barred.
2. Owens did not establish a statutory change in condition that permitted reopening of his claim under SDCL 62-7-33. The statute could not be used before expiration of the limitations period to avoid the two-year deadline for challenging the denial.

KEY QUOTATIONS

“SDCL 62-7-35 provides the limitations period when an employer gives formal notice that it denies or disputes an employee’s claim, in whole or in part.” (¶ 10)

“This notification of Federated’s intent to deny further coverage for any claims arising from the October 16 injury satisfied the requirements of SDCL 62-7-35 and was sufficient notice to inform Owens that the two year statute of limitations had begun.” (¶ 12)

“Allowing application of SDCL 62-7-33 before the two year time limitations period expired would strip the effectiveness of the two year limit on requesting a hearing to review a claim.” (¶ 20)

FACTUAL BACKGROUND

Owens was injured in an October 16, 1998, one-vehicle accident while working as a line foreman for F.E.M. Electric Association. The insurer paid medical and disability benefits for his shoulder injury, and Owens returned to work in March 1999. After he collapsed on May 5, 1999, with leg and back pain, he filed a separate injury report; the insurer denied the back claim on June 1, 1999, and on June 25, 1999, denied further claims arising from the October accident and advised him of the two-year period to request a hearing. Owens underwent herniated-disc surgery in August 1999 but did not petition for workers' compensation benefits until February 2002.

PROCEDURAL HISTORY

After Federated denied coverage for Owens's back injury and future claims arising from the October 1998 accident, Owens petitioned the South Dakota Department of Labor for workers' compensation benefits in February 2002. The ALJ granted summary judgment, ruling that the claim was barred by the two-year statute of limitations in SDCL 62-7-35 and that Owens had not established a change in condition under SDCL 62-7-33. The circuit court affirmed, and the South Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Jerauld County v. Huron Regional Medical Center, Inc., 2004 SD 89, 685 N.W.2d 140
- Department of Revenue v. Thiewes, 448 N.W.2d 1 (S.D. 1989)
- Wilson v. Great Northern Ry. Co., 83 S.D. 207, 157 N.W.2d 19 (1968)
- Sherman v. Sherman, 2000 SD 117, 616 N.W.2d 393
- Faircloth v. Raven Industries, Inc., 2000 SD 158, 620 N.W.2d 198
- Invie v. Control Data Corp., 247 N.W.2d 425 (Minn. 1976)
- Cibor v. Fabricon Products Co., 150 N.W.2d 769 (Mich. 1967)
- Belton v. Traynor, 381 F.2d 82 (4th Cir. 1967)
- Mills v. Spink Elec. Co-op., 442 N.W.2d 243 (S.D. 1989)
- Sopko v. C. & R. Transfer Co., Inc., 1998 SD 8, 575 N.W.2d 225
- South Dakota Board of Nursing v. Jones, 1997 SD 78, 566 N.W.2d 142
- Trip-Tenn, Inc. v. Schultz, 2003 SD 10, 656 N.W.2d 747

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