

DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

Johns Eastern Co. v. Bellamy

137 So. 3d 1058 (Fla. Dist. Ct. App. 2014) · Decided March 12, 2014

SUMMARY

The Florida First District Court of Appeal considered whether an employer and carrier rebutted the occupational causation presumption for a firefighter/paramedic's hypertension and premature ventricular contractions under section 112.18(1)(a), Florida Statutes. The court held that the applicable burden depended on whether independent evidence supporting occupational causation had been accepted as credible, and remanded because the Judge of Compensation Claims did not clearly identify which burden of proof applied.

CASE DETAILS

COURT	District Court of Appeal of Florida, First District
WRITING FOR THE COURT	Clark; Makar; Osterhaus
JURISDICTION	Florida
DECIDED	March 12, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Employer/Carrier appealed a Judge of Compensation Claims order awarding workers' compensation benefits for the claimant's hypertension and premature ventricular contractions.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Johns Eastern Co., Employer/Carrier v. Bellamy

TOPICS

workers compensation

statutory interpretation

appellate procedure

PRACTICE AREAS

workers compensation

employment law

QUESTIONS PRESENTED

1. Whether the claimant satisfied the prerequisites for the occupational causation presumption under section 112.18(1)(a), Florida Statutes (2011).

2. What burden of proof an employer or carrier must meet to rebut the section 112.18 occupational causation presumption when the claimant relies solely on the presumption and no independent medical evidence supporting occupational causation has been accepted as credible.
3. Whether the JCC's order had to be reversed and remanded because it referenced both competent evidence and clear and convincing evidence without identifying which burden the Employer/Carrier was required to meet.

HOLDINGS

1. The court affirmed, without further comment, the JCC's finding that the claimant satisfied the prerequisites for the occupational causation presumption afforded by section 112.18(1)(a), Florida Statutes (2011).
2. When a claimant relies solely on the statutory presumption and there is no independent medical evidence supporting occupational causation that has been accepted as credible by the JCC, the Employer/Carrier may rebut the presumption with competent evidence. Clear and convincing evidence is required only when evidence supporting the presumption has been accepted as credible by the JCC.
3. The JCC's order had to be reversed and remanded because it referenced both competent evidence and clear and convincing evidence without specifying which burden the Employer/Carrier had to meet, leaving it unclear whether the JCC improperly imposed the higher burden.

FACTUAL BACKGROUND

The claimant was a firefighter/paramedic diagnosed with hypertension and premature ventricular contractions. He sought workers' compensation benefits under the occupational causation presumption in section 112.18(1)(a), Florida Statutes (2011). The JCC found that he satisfied the prerequisites for the presumption but referenced both competent-evidence and clear-and-convincing-evidence burdens when deciding whether the Employer/Carrier rebutted it.

PROCEDURAL HISTORY

The Judge of Compensation Claims found that the claimant satisfied the prerequisites for the occupational causation presumption applicable to firefighters and awarded benefits. The Employer/Carrier appealed, arguing that the JCC applied an incorrect burden of proof when determining whether the statutory presumption had been rebutted. The appellate court affirmed the finding that the claimant qualified for the presumption but reversed and remanded for application of the appropriate rebuttal burden.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The JCC must determine whether the Employer/Carrier rebutted the section 112.18 presumption by applying the competent-evidence burden, because no independent medical evidence supporting occupational causation was

cited as having been accepted as credible.

CASES CITED

- Punskey v. Clay County Sheriff's Office, 18 So. 3d 577 (Fla. 1st DCA 2009) (en banc)

OPINION

PER CURIAM.

PER CURIAM. In this workers' compensation matter, the Employer/Carrier (E/C) argues the Judge of Compensation Claims (JCC) erred in awarding Claimant, a firefighter/paramedic, benefits for his diagnosed hypertension and premature ventricular contractions.

We affirm without further comment the JCC's finding that Claimant satisfied the prerequisites for the occupational causation presumption afforded firefighters, and certain other employees, set out in section 112.18(l)(a), Florida Statutes (2011). Nevertheless, because it appears the JCC may have relied upon an incorrect standard in determining whether the E/C successfully rebutted the occupational causation presumption, we reverse and remand.

In Punskey v. Clay County Sheriff's Office, 18 So.3d 577 (Fla. 1st DCA 2009) (en banc), we addressed the very issue presented in this appeal — the burden of persuasion required of an employer who seeks to rebut the presumption afforded by section 112.18. Two circumstances were identified and this Court determined that each required a different level of proof to rebut the presumption.

In those circumstances whereby a claimant relies solely on the presumption to support his or her claim, the E/C can rebut the presumption with "competent evidence." Id. at 579. On the other hand, "when there is evidence supporting the presumption which is accepted as credible by the JCC [then] clear and convincing evidence would be required to be found by the JCC... to rebut the statutory presumption." Id. at 584.

Here, because the JCC cited no independent medical evidence in support of occupational causation, the E/C's burden to rebut the presumption required it produce "competent" evidence. The JCC, however, referenced both burdens of proof, without specifying either as the burden to be met, in finding the presumption was not rebutted.

Because it was not clear whether the JCC erroneously held the E/C to the higher stand of proof, the order is REVERSED, and the matter REMANDED, for application of the appropriate burden of proof. CLARK, MAKAR, and OSTERHAUS, JJ., concur.