

SUPREME COURT OF OHIO

State ex rel. E.I. DuPont DeNemours & Co. v. Industrial Commission

116 Ohio St. 3d 25 (Ohio 2007) · Decided October 23, 2007

SUMMARY

The Ohio Supreme Court affirmed the award of permanent total disability compensation to Ferrall L. Limle based on medical evidence that his allowed occupational diseases rendered him incapable of sustained remunerative employment. The court held that his predisability retirement from DuPont did not bar compensation because he later worked for a school district, there was no evidence of voluntary abandonment of the labor market, and his long-latency occupational diseases manifested after retirement.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per curiam; Chief Justice Moyer; Justice Pfeifer; Justice Lundberg Stratton; Justice O'Connor; Justice O'Donnell; Justice Lanzinger; Justice Cupp
JURISDICTION	Ohio
DECIDED	October 23, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	DuPont appealed as of right from a Franklin County Court of Appeals judgment denying its mandamus challenge to the Industrial Commission's award of permanent total disability compensation to Limle.
STANDARD OF REVIEW	Whether the Industrial Commission abused its discretion in awarding permanent total disability compensation; in mandamus, the court reviews whether the commission's order is supported by some evidence and is not contrary to law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	E.I. DuPont DeNemours & Company v. Industrial Commission of Ohio, Ferrall L. Limle

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Industrial Commission abused its discretion by relying on medical reports that also listed nonallowed conditions in finding Limle medically incapable of sustained remunerative employment.
2. Whether Limle's retirement from DuPont before the onset of disability barred his eligibility for permanent total disability compensation.

HOLDINGS

1. The Industrial Commission did not abuse its discretion because the medical reports, including Dr. Corriveau's report and follow-up, supported the finding that Limle was incapable of sustained remunerative employment based on his allowed conditions.
2. Predisability retirement does not bar permanent total disability compensation unless the claimant entirely retired from the labor market, and retirement does not defeat eligibility when disability results from a long-latency occupational disease that manifested after retirement.

KEY QUOTATIONS

“First, predisability retirement does not preclude eligibility for permanent total disability compensation unless the claimant retired entirely from the labor market.” (§ 9)

“Equally important, Limle’s disabilities stemmed from a long-latency occupational disease.” (§ 10)

FACTUAL BACKGROUND

Limle worked for DuPont for approximately 27 years and was exposed to asbestos. After retiring from DuPont in 1992, he worked for a local school district. In 2001, he was diagnosed with pneumoconiosis, asbestosis, and pleural disease attributable to his DuPont exposure, and those conditions were allowed in his workers' compensation claim. Medical reports, particularly Dr. Corriveau's report and addendum, supported a finding that Limle was incapable of sustained remunerative or physical work.

PROCEDURAL HISTORY

The Industrial Commission awarded Limle permanent total disability compensation based on medical reports concerning his allowed occupational-disease conditions and found that his retirement from DuPont was not a voluntary and total abandonment of employment. DuPont filed a mandamus complaint in the Franklin County Court of Appeals, which found that the commission's order was supported by evidence. The Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Baker Material Handling Corp. v. Indus. Comm., 69 Ohio St. 3d 202, 631 N.E.2d 138 (1994)
- State ex rel. Liposchak v. Indus. Comm., 73 Ohio St. 3d 194, 652 N.E.2d 753 (1995)

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