

SUPREME COURT OF KENTUCKY

Lizdo v. Gentec Equipment

74 S.W.3d 703 (Ky. 2002) · Decided May 16, 2002

SUMMARY

The Kentucky Supreme Court reversed and remanded a workers' compensation limitations ruling because the employer failed to establish that it had properly notified the Department of Workers' Claims of the termination of temporary total disability benefits. The court held that the evidence supporting the employer's compliance with the electronic filing requirement was insufficient and that the finding supporting the limitations defense was unreasonable. The matter was remanded to the Administrative Law Judge for consideration of the merits of the claim.

CASE DETAILS

COURT	Supreme Court of Kentucky
JURISDICTION	Kentucky
DECIDED	May 16, 2002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The claimant appealed the Kentucky Court of Appeals' reversal of the Workers' Compensation Board and reinstatement of the Administrative Law Judge's dismissal of the workers' compensation claim as untimely.
STANDARD OF REVIEW	An ALJ's factual finding is subject to reversal when it is unreasonable under the evidence. The employer bore the burden of proving the limitations defense.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion
PARTIES	Lizdo v. Gentec Equipment, Special Fund

TOPICS

workers compensation

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PRACTICE AREAS

workers' compensation

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QUESTIONS PRESENTED

1. Whether the employer established compliance with KRS 342.040(1) and 803 KAR 25:170, section 2(1), sufficient to support a limitations defense.
2. Whether the ALJ's finding that the employer complied with its notice obligation was unreasonable under the evidence.
3. Whether the claimant's workers' compensation claim should be remanded for consideration on the merits.

HOLDINGS

1. The employer failed to establish that it electronically filed the required Form IA-2, or otherwise properly notified the Department of the termination of temporary total disability benefits.
2. The ALJ's finding that the employer complied with its statutory and regulatory obligations was unreasonable under the evidence and could be reversed on appeal.
3. The court did not need to decide whether the Commissioner's failure to comply with KRS 342.040(1), standing alone, would toll the limitations period.

KEY QUOTATIONS

“Under those circumstances, when presented with no evidence that the Commissioner of the Department sent the required notice to the claimant and with the claimant’s testimony that he did not receive such notice, it was unreasonable for the ALJ to rely upon the SF-3A that is contained in this record as the sole basis for concluding that the employer complied with its statutory and regulatory requirements.” (74 S.W.3d at 706)

“Having concluded that the employer failed to establish that it was entitled to a limitations defense, it is unnecessary for us to address whether the Commissioner’s failure to comply with KRS 342.040(1), by itself, would have tolled the applicable period of limitations.” (74 S.W.3d at 706)

FACTUAL BACKGROUND

Lizdo sustained a burn injury while welding on July 25, 1996, and a separate crushing injury to his right foot on September 3, 1996. Temporary total disability benefits for the injuries ended in August and October 1996, respectively. Lizdo filed a workers' compensation claim in January 1999, and the employer asserted that the claim was barred because more than two years had elapsed since the last benefit payment. The record contained no Department certification that the required termination notice had been filed and no proof that the Commissioner notified Lizdo of his right to prosecute or of the applicable limitations period.

PROCEDURAL HISTORY

The ALJ determined that the employer had complied with KRS 342.040(1) and dismissed the claim as barred by the limitations period. The Workers' Compensation Board reversed, concluding that the Commissioner's failure to notify the claimant of the applicable limitations period tolled the period. The Court of Appeals reversed the Board and reinstated the ALJ's decision. In the Supreme Court, the employer conceded that its carrier had not filed the required electronic termination notice and joined the claimant and Special Fund in requesting a remand for proceedings based on the actual facts.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Administrative Law Judge for further proceedings and consideration of the merits of the claim based on the actual facts.

CASES CITED

- Ingersoll-Rand v. Whittaker, 883 S.W.2d 514 (Ky. App. 1994)
- Special Fund v. Francis, 708 S.W.2d 641, 643 (Ky. 1986)