

DISTRICT OF COLUMBIA COURT OF APPEALS

Travelers Indemnity Co. of Illinois v. District of Columbia Department of Employment Services

975 A.2d 823 (D.C. 2009) · No. No. 05-AA-1290 · Decided July 9, 2009

SUMMARY

The District of Columbia Court of Appeals reviewed the Compensation Review Board's dismissal of an employer's appeal from an Office of Workers' Compensation order. The court held that filing an application for a formal hearing terminated the informal proceedings and deprived the Office of Workers' Compensation of jurisdiction to later convert the informal conference memorandum into a final order, even after the formal-hearing application was withdrawn. The court affirmed the dismissal for lack of jurisdiction and declined to reach the underlying insurance-coverage dispute.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Ruiz, Associate Judge; Washington, Chief Judge; Farrell, Senior Judge
JURISDICTION	District of Columbia
DECIDED	July 9, 2009
DOCKET	No. 05-AA-1290
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner sought review of the Compensation Review Board's dismissal of the employer's appeal from an Office of Workers' Compensation final order for lack of jurisdiction.
STANDARD OF REVIEW	The court must affirm an agency decision unless it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The court defers to an agency's reasonable interpretation of a statute or regulation it is charged with implementing.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Travelers Indemnity Company of Illinois v. District of Columbia Department of Employment Services

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QUESTIONS PRESENTED

1. Whether filing an application for a formal hearing after rejecting a Claims Examiner's Memorandum of Informal Conference terminates the informal Office of Workers' Compensation proceedings and divests that office of jurisdiction, even if the formal-hearing application is later withdrawn.
2. Whether the Compensation Review Board properly applied its revised interpretation of the governing regulations to this case.

HOLDINGS

1. Under the governing regulations, filing an application for a formal hearing terminates the informal Office of Workers' Compensation procedures and divests that office of jurisdiction, even when the application is later withdrawn. The previously issued Memorandum of Informal Conference is therefore null and void and cannot be converted into a final order.
2. The employer's appeal was taken from a non-final order, so the Compensation Review Board properly dismissed the appeal for lack of jurisdiction.
3. The Compensation Review Board did not act arbitrarily by applying its revised interpretation of the regulations to this case.

KEY QUOTATIONS

"Once an application for a formal hearing is filed, however, all informal procedures must be terminated."
(975 A.2d 826)

"All informal procedures shall terminate when the application for formal hearing is filed." (975 A.2d 829)

"The Memorandum of Informal Conference ... is, in effect, a recommendation for settlement—which the parties can either accept or reject" (975 A.2d 829)

FACTUAL BACKGROUND

Jerry Russell, an escalator-maintenance worker, injured his back, neck, and right shoulder while performing work in the District of Columbia. The employer conceded that the injury was work-related, but the employer and its insurer disputed whether the insurer's policy covered District of Columbia employment. A Claims Examiner recommended that the employer, rather than the insurer, be liable, after which the employer rejected the recommendation, filed, and later withdrew an application for a formal hearing.

PROCEDURAL HISTORY

A Claims Examiner issued a Memorandum of Informal Conference recommending that the employer, rather than the insurer, pay the claimant's workers' compensation benefits. The employer rejected the recommendation and filed an application for a formal hearing, but later withdrew that application. The Office of Workers' Compensation then adopted the memorandum as a final order; the Compensation Review Board dismissed the employer's appeal for lack of jurisdiction, and the insurer petitioned the District of Columbia Court of Appeals for review.

DISPOSITION

affirmed

CASES CITED

- Washington Metropolitan Area Transit Authority v. D.C. Department of Employment Services, 825 A.2d 292, 294 (D.C. 2003)
- National Geographic Society v. D.C. Department of Employment Services, 721 A.2d 618, 621-22 (D.C. 1998)
- Russell v. Vertrans, Inc., CRB No. 03-56, slip op. at 1 n. 1 (Oct. 7, 2005)
- Sacko v. Radio Shack, CRB No. 02-89, 2003 WL 22952723, *3, 2003 D.C. Wrk. Comp. Lexis 310, *8-9 (Aug. 25, 2003)
- Gooden v. National Children's Center, CRB Nos. 03-137 & 03-142, 2006 WL 4583383, 2006 D.C. Wrk. Comp. Lexis 485 (Apr. 14, 2006)
- 4934, Inc. v. District of Columbia Department of Employment Services, 605 A.2d 50, 57 (D.C. 1992)
- Parodi v. District of Columbia Department of Employment Services, 560 A.2d 524, 526 (D.C. 1989)
- Ferreira v. Department of Employment Services, 531 A.2d 651, 655 (D.C. 1987)
- Thornton v. Norwest Bank of Minnesota, 860 A.2d 838, 841 (D.C. 2004)
- Reichley v. D.C. Department of Employment Services, 531 A.2d 244, 251 (D.C. 1987)
- Retail, Wholesale & Department Store Union v. National Labor Relations Board, 151 U.S. App. D.C. 209, 219, 466 F.2d 380, 390 (1972)
- Hansborough v. Washington Metropolitan Transit Authority, H & AS No. 86-601A, 1988 WL 1022946, *1 n. 1, 1988 D.C. Wrk. Comp. Lexis 35, *1 n. 1 (June 2, 1988)
- Washington v. D.C. Department of Public Works, 954 A.2d 945, 948 (D.C. 2008)
- Smigelski v. Potomac Insurance Co. of Illinois, 403 Md. 55, 939 A.2d 189 (2008)

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