SUPREME COURT OF ILLINOIS

Hamilton v. Industrial Commission, 203 Ill. 2d 250

785 N.E.2d 839, 271 Ill. Dec. 645 (Ill. 2003) · No. No. 93251 · Decided February 6, 2003

SUMMARY

The Illinois Supreme Court held that, under section 1(d) of the Workers' Occupational Diseases Act, liability for occupational hearing loss rests with the employer in whose employment the employee was last exposed to the occupational disease hazard. Because Terry Hamilton was last exposed to loud noise while employed by Silgan Container Corporation, his former employer, American National Can Company, was not liable. The court affirmed the decision of the Industrial Commission and the lower courts.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Fitzgerald
JURISDICTION	Illinois
DECIDED	February 6, 2003
DOCKET	No. 93251
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hamilton appealed the Illinois Industrial Commission's decision, affirmed by the circuit court and the appellate court, holding that American National Can Company was not liable for his occupational hearing loss because it was not the employer in whose employment he was last exposed to the hazard.
STANDARD OF REVIEW	Industrial Commission factual determinations are reviewed for manifest weight of the evidence, while legal issues and questions of statutory interpretation are reviewed de novo.
PRECEDENTIAL VALUE	Published Illinois Supreme Court opinion; precedential.
PARTIES	Terry Hamilton v. The Industrial Commission, American National Can Company

TOPICS

workers compensation administrative law judicial review of agency action statutory interpretation standard of review

PRACTICE AREAS

workers compensation administrative law statutory interpretation appellate procedure

QUESTIONS PRESENTED

1. Whether section 1(d) of the Workers' Occupational Diseases Act imposes liability for occupational hearing loss on the employer in whose employment the employee was last exposed to the occupational disease hazard, even when the employee's injury was substantially caused by exposure during employment with a prior employer.
2. Whether liability for occupational hearing loss under the Act may be apportioned among successive employers.

HOLDINGS

1. Section 1(d) clearly and mandatorily makes liable the employer in whose employment the employee was last exposed to the occupational disease hazard, regardless of the length of that last exposure. Because Hamilton was last exposed to loud noise while employed by Silgan Container, American National Can Company was not liable.
2. The Workers' Occupational Diseases Act does not permit the court to apportion liability for occupational hearing loss among successive employers; the legislature selected total compensation from the employer associated with the employee's last exposure.

KEY QUOTATIONS

> *"The employer liable for the compensation in this Act provided shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease claimed upon regardless of the length of time of such last exposure * * *."* (842)

> *"Section 1(d) imposes mandatory liability upon the employer in whose employment Hamilton was last exposed to loud noise."* (842)

FACTUAL BACKGROUND

Hamilton worked for American National Can Company from 1970 until the plant was sold to Silgan Container Corporation on August 1, 1995. During his employment with American Can, he was repeatedly exposed to excessive industrial noise and developed hearing loss; he continued working at the same plant for Silgan and remained exposed to the noise. An arbitrator apportioned his permanent hearing loss between the two employers, but the Industrial Commission concluded that Silgan was the employer during Hamilton's last exposure and therefore solely liable under the Workers' Occupational Diseases Act.

PROCEDURAL HISTORY

Hamilton filed separate occupational hearing loss claims against American National Can Company and Silgan Container Corporation. An arbitrator apportioned his hearing loss between the two employers, but the Industrial Commission reversed as to American Can, concluding that Silgan was the last employer exposed to the hazard and therefore was liable. The Vermilion County circuit court and the appellate court affirmed. The Illinois Supreme Court granted leave to appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Freeman United Coal Mining Co. v. Industrial Commission, 188 Ill. 2d 243, 245, 720 N.E.2d 1063 (1999)
- Sylvester v. Industrial Commission, 197 Ill. 2d 225, 232, 756 N.E.2d 822 (2001)
- Michigan Avenue National Bank v. County of Cook, 191 Ill. 2d 493, 503-04, 732 N.E.2d 528 (2000)
- Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc., 199 Ill. 2d 325, 342, 770 N.E.2d 177 (2002)
- Fleming v. Industrial Commission, 95 Ill. 2d 329, 447 N.E.2d 819 (1983)
- Thermos Co. v. Industrial Commission, 83 Ill. 2d 54, 413 N.E.2d 1246 (1980)
- H & H Plumbing Co. v. Industrial Commission, 170 Ill. App. 3d 706, 719, 525 N.E.2d 155 (1988)
- Davis v. Toshiba Machine Co., America, 186 Ill. 2d 181, 184-85, 710 N.E.2d 399 (1999)
- People ex rel. Devine v. $30,700.00 United States Currency, 199 Ill. 2d 142, 150-51, 766 N.E.2d 1084 (2002)
- Concrete Structures of the Midwest, Inc. v. Industrial Commission, 315 Ill. App. 3d 596, 599, 734 N.E.2d 970 (2000)