

SUPREME COURT OF OHIO

State ex rel. K&D Group, Inc. v. Buehrer

135 Ohio St. 3d 257, 2013-Ohio-734 (2013) · No. 2011-1918 · Decided March 6, 2013

SUMMARY

The Supreme Court of Ohio held that K&D Group, Inc. was not a successor in interest to Mid-America Management Corporation for workers' compensation experience-rating purposes. Because there was no evidence that Mid-America voluntarily transferred its business operations to K&D Group, the Bureau of Workers' Compensation abused its discretion by transferring part of Mid-America's experience rating. The court reversed the court of appeals and issued a writ of mandamus ordering the bureau to calculate K&D Group's experience rate without Mid-America's experience.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; O'Connor, C.J.; Pfeifer, J.; O'Donnell, J.; Lanzinger, J.; Kennedy, J.; French, J.; O'Neill, J.
JURISDICTION	Ohio
DECIDED	March 6, 2013
DOCKET	2011-1918
DISPOSITION	reversed
PROCEDURAL POSTURE	K&D Group appealed as of right from the Franklin County Court of Appeals' denial of its complaint for a writ of mandamus against the Bureau of Workers' Compensation.
STANDARD OF REVIEW	In a mandamus action, the court reviewed whether the Bureau abused its discretion in treating K&D Group as a successor in interest and transferring Mid-America's experience rating.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	K&D Group, Inc. v. Buehrer, Administrator

TOPICS

[workers compensation](#)[administrative law](#)[judicial review of agency action](#)[appellate procedure](#)[remedies](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether K&D Group was a successor in interest to Mid-America for purposes of transferring workers' compensation experience ratings.
2. Whether the Bureau abused its discretion by transferring part of Mid-America's experience rating to K&D Group.

HOLDINGS

1. K&D Group was not a successor in interest because it merely contracted with the new owner to manage the existing apartment complex, and there was no evidence that Mid-America voluntarily transferred its business operation to K&D Group.
2. The Bureau abused its discretion by transferring part of Mid-America's experience rating to K&D Group.

KEY QUOTATIONS

“For the reasons that follow, we hold that K&D Group, Inc., was not a successor in interest for purposes of workers’ compensation law. Thus, the bureau abused its discretion when it transferred part of Mid-America’s experience rating to K&D Group, Inc.” (¶ 2)

“[A] successor-in-interest, for workers’ compensation purposes, is simply a transferee of a business in whole or in part.” (¶ 12)

“Thus, the bureau abused its discretion when it treated K&D Group as a successor in interest.” (¶ 16)

FACTUAL BACKGROUND

K&D Group was hired by the new owner of an apartment complex to manage the property after the complex was acquired through entities associated with Mid-America Management Corporation. K&D Group hired some former Mid-America employees, assumed day-to-day management and existing tenant leases, and operated under the same workers' compensation manual numbers. The Bureau concluded that K&D Group was Mid-America's successor in interest and transferred part of Mid-America's experience rating, which included a large workers' compensation claim.

PROCEDURAL HISTORY

The Bureau determined that K&D Group was the successor in interest to Mid-America Management Corporation and transferred part of Mid-America's workers' compensation experience rating to K&D Group. After the Bureau denied K&D Group's protest and administrative appeal, K&D Group sought mandamus in the Franklin County Court of Appeals. The magistrate concluded that the Bureau had not abused its discretion, the court of appeals adopted that decision and denied the writ, and the Supreme Court of Ohio reversed and granted mandamus.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The Bureau was ordered to determine K&D Group's experience rate without taking Mid-America's experience rate into consideration.

CASES CITED

- State ex rel. Crosset Co., Inc. v. Conrad, 87 Ohio St. 3d 467, 721 N.E.2d 986 (2000)
- State ex rel. Lake Erie Constr. Co. v. Indus. Comm., 62 Ohio St. 3d 81, 578 N.E.2d 458 (1991)
- State ex rel. Lynnhaven XIV, L.L.C. v. Conrad, 10th Dist. No. 02AP-36, 2003-Ohio-825, 2003 WL 462506
- State ex rel. Valley Roofing, L.L.C. v. Ohio Bur. of Workers' Comp., 122 Ohio St. 3d 275, 2009-Ohio-2684, 910 N.E.2d 1018