

SUPREME COURT OF PENNSYLVANIA

Bufford v. Workers' Compensation Appeal Board (North American Telecom)

606 Pa. 621 (2010) (Pa. 2010) · No. No. 2 MAP 2009 · Decided August 17, 2010

SUMMARY

The Supreme Court of Pennsylvania addressed the burdens of proof in proceedings to reinstate suspended workers' compensation benefits under Section 413(a) of the Pennsylvania Workers' Compensation Act. The court held that the claimant must show that earning power is again adversely affected by a continuing disability related to the original claim, after which the opposing party must show that the loss of earnings is not caused by the work-related disability. The court rejected the rule that a claimant is barred from reinstatement merely because the claimant left modified-duty employment with the time-of-injury employer for better-paying work with another employer that later ended involuntarily.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice McCaffery; Chief Justice Castille; Justice Saylor; Justice Eakin; Justice Baer; Justice Todd; Justice Greenspan
JURISDICTION	Pennsylvania
DECIDED	August 17, 2010
DOCKET	No. 2 MAP 2009
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Claimant petitioned for reinstatement of suspended workers' compensation benefits under section 413(a) of the Pennsylvania Workers' Compensation Act. The workers' compensation judge denied reinstatement, the Workers' Compensation Appeal Board affirmed after remand, and the Commonwealth Court affirmed. The Supreme Court of Pennsylvania granted review on the allocation of burdens of proof and the effect of a claimant's leaving modified-duty employment for another job that later ended involuntarily.
STANDARD OF REVIEW	Agency decisions are reviewed for constitutional violations, errors of law, violations of agency procedure, and whether necessary factual findings are supported by substantial evidence. Statutory interpretation

	presents a question of law reviewed de novo under a plenary scope of review.
PRECEDENTIAL VALUE	Published precedential decision of the Supreme Court of Pennsylvania
PARTIES	Terry Bufford v. Workers' Compensation Appeal Board, North American Telecom

TOPICS

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

PRACTICE AREAS

workers' compensation administrative law statutory interpretation employment law remedies

QUESTIONS PRESENTED

1. What burden of proof must a claimant meet to obtain reinstatement of suspended workers' compensation benefits under section 413(a) when the claimant leaves modified-duty employment for another job that later ends involuntarily?
2. How does section 413(a) allocate the burdens of proof between the claimant seeking reinstatement and the party opposing reinstatement?
3. Whether leaving modified-duty employment with the time-of-injury employer for better pay or working conditions constitutes claimant fault that independently bars reinstatement of suspended benefits.

HOLDINGS

1. A claimant seeking reinstatement of suspended workers' compensation benefits must prove that earning power is again adversely affected by the claimant's disability and that the disability is a continuation of the disability underlying the original claim. The claimant need not re-prove that the disability resulted from the original work-related injury.
2. Once the claimant satisfies the initial burden, the burden shifts to the party opposing reinstatement to show that the claimant's loss of earnings is not caused by the disability arising from the work-related injury.
3. A claimant remains eligible to seek reinstatement of suspended benefits when employment with a post-injury employer ends, even if the claimant previously performed modified-duty work for the time-of-injury employer and voluntarily left that position for better pay or working conditions.

KEY QUOTATIONS

"A claimant seeking reinstatement of suspended benefits must prove that his or her earning power is once again adversely affected by his or her disability, and that such disability is a continuation of that which arose from his or her original claim." (557-58)

“We hold that a claimant remains eligible for reinstatement of suspended benefits where the claimant's employment with a post-injury employer is terminated, even where the claimant had previously performed modified post-injury duties for the time-of-injury employer.” (558)

FACTUAL BACKGROUND

Terry Bufford suffered a work-related lower-back injury while working for North American Telecom, which acknowledged the injury and temporary total disability. He later returned to modified light-duty work for North American Telecom, then voluntarily left that position for higher-paying, less physically demanding work with Ronco Machine. After Ronco laid him off for economic reasons several years later, Bufford sought reinstatement of suspended benefits, asserting that his original injury continued to reduce his earning power.

PROCEDURAL HISTORY

The workers' compensation judge initially denied Bufford's reinstatement petition, finding that his loss of earnings resulted from his layoff by Ronco rather than a worsening of his work injury. The Board remanded for findings concerning why Bufford left his modified-duty position with North American Telecom; the judge then found that he left for higher wages and not because of his injury, and again denied relief. The Board and Commonwealth Court affirmed, and the Pennsylvania Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Commonwealth Court's order was reversed and the matter was remanded for treatment consistent with the Supreme Court's opinion, including application of the clarified burdens of proof under section 413(a).

CASES CITED

- *Stevens v. Workers' Compensation Appeal Board (Consolidation Coal Co.)*, 563 Pa. 297, 760 A.2d 369 (2000)
- *Pieper v. Ametek-Thermox Instruments Division*, 526 Pa. 25, 584 A.2d 301 (1990)
- *Borough of Heidelberg v. Workers' Compensation Appeal Board (Selva)*, 593 Pa. 174, 928 A.2d 1006 (2007)
- *Vista International Hotel v. Workmen's Compensation Appeal Board (Daniels)*, 560 Pa. 12, 742 A.2d 649 (1999)
- *Kachinski v. Workmen's Compensation Appeal Board (Vepco Construction Co.)*, 516 Pa. 240, 532 A.2d 374 (1987)
- *Horne v. Workers' Compensation Appeal Board (Chalmers & Kubeck)*, 840 A.2d 460 (Pa. Cmwlth. 2004)
- *Welsh v. Workmen's Compensation Appeal Board (L.W. Miller Roofing Co.)*, 686 A.2d 59 (Pa. Cmwlth. 1996)
- *Dillon v. Workmen's Compensation Appeal Board (Greenwich Collieries)*, 536 Pa. 490, 640 A.2d 386 (1994)

- Bethlehem Steel Corp. v. Workers' Compensation Appeal Board (Laubach), 563 Pa. 313, 760 A.2d 378 (2000)
- Hannaberry HVAC v. Workers' Compensation Appeal Board (Snyder, Jr.), 575 Pa. 66, 834 A.2d 524 (2003)
- Peterson v. Workmen's Compensation Appeal Board (PRN Nursing Agency), 528 Pa. 279, 597 A.2d 1116 (1991)
- Harper & Collins v. Workmen's Compensation Appeal Board (Brown), 543 Pa. 484, 672 A.2d 1319 (1996)
- Riddle v. Workers' Compensation Appeal Board (Allegheny City Electric, Inc.), 603 Pa. 74, 981 A.2d 1288 (2009)
- Latta v. Workmen's Compensation Appeal Board (Latrobe Die Casting Co.), 537 Pa. 223, 642 A.2d 1083 (1994)
- Bufford v. Workers' Compensation Appeal Board (North American Telecom), 600 Pa. 126, 963 A.2d 1271 (2009) (per curiam)

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