

SUPREME COURT OF NEVADA

N. Lake Tahoe Fire Prot. Dist. v. Bd. of Admin. of the Subsequent Injury Account for the Associations of Self-Insured Pub. Or Private Emp'rs

431 P.3d 39 (Nev. 2018) · Decided December 6, 2018

SUMMARY

The Nevada Supreme Court held that an employer seeking reimbursement under NRS 616B.578 must establish by written record that it knew of a preexisting permanent physical impairment supporting at least a 6% whole-person impairment rating. The employer need not have known the precise medical diagnosis, but knowledge of a qualifying impairment must be fairly and reasonably inferred from the written record. The court reversed and remanded because it was unclear whether the employer had the requisite knowledge.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Douglas, C.J.; Cherry, J.; Pickering, J.; Parraguirre, J.; Gibbons, J.; Hardesty, J.; Stiglich, J.
JURISDICTION	Nevada
DECIDED	December 6, 2018
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appellants sought judicial review of the Board's denial of reimbursement from Nevada's Subsequent Injury Account. The district court affirmed the Board, and appellants appealed.
STANDARD OF REVIEW	The Supreme Court reviews an administrative agency decision in the same manner as the district court and gives no deference to the district court's order. Statutory interpretation is generally reviewed de novo, although the court defers to an agency's reasonable interpretation of its governing statutes and regulations. Factual findings are reviewed for clear error or abuse of discretion and will be upheld if supported by substantial evidence.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential.

PARTIES

North Lake Tahoe Fire Protection District, Public Agency
Compensation Trust v. Board of Administration of the Subsequent
Injury Account for the Associations of Self-Insured Public or Private
Employers, Nevada Department of Business and Industry, Division of
Industrial Relations

TOPICS

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

PRACTICE AREAS

workers compensation administrative law employment law statutory interpretation insurance

QUESTIONS PRESENTED

1. Whether NRS 616B.578 requires an employer to prove by written record that it knew, before the subsequent injury, of a preexisting permanent physical impairment capable of supporting a rating of at least 6% whole-person impairment.
2. Whether NRS 616B.578 requires the employer to have known the employee's specific medical diagnosis, such as spondylolisthesis, before the subsequent injury.
3. Whether the Board's denial of reimbursement was supported by a reasonable statutory interpretation and substantial evidence.

HOLDINGS

1. An employer seeking reimbursement under NRS 616B.578 must prove by written record that it knew of a preexisting permanent physical impairment that would support a rating of at least 6% whole-person impairment.
2. NRS 616B.578 does not require an employer to know the exact medical terminology or specific diagnosis describing the employee's qualifying permanent physical impairment.
3. The denial could not be sustained because it was unclear whether the District knew of a permanent condition hindering employment and whether that knowledge could fairly and reasonably be inferred from the written record.

KEY QUOTATIONS

“We conclude that requiring an employer to prove that it had knowledge of a preexisting permanent physical impairment that would support a rating of at least 6% whole person impairment is a reasonable interpretation of NRS 616B.578.” (431 P.3d at 39)

“We are persuaded by the reasoning in VECO, and thus, we conclude that appellants were not required to show that the employer knew of the exact medical terminology for the employee's permanent physical impairment, specifically, spondylolisthesis, prior to the subsequent injury.” (431 P.3d at 44)

FACTUAL BACKGROUND

The District employed a firefighter and paramedic who sustained multiple back injuries between 2002 and 2007. Before his November 2007 subsequent injury, medical records documented conditions including herniated nucleus pulposus, radiculopathy, back sprain, and lumbar disc abnormalities; spondylolisthesis was specifically diagnosed only after the subsequent injury. Medical evaluators disagreed about apportionment, but ultimately 10.5% whole-person impairment was apportioned to preexisting conditions, and PACT sought reimbursement from the Subsequent Injury Account.

PROCEDURAL HISTORY

PACT sought reimbursement under NRS 616B.578 after paying a workers' compensation permanent partial disability award following apportionment for a claimed preexisting impairment. The Administrator recommended denial, the Board denied the reimbursement application, and the district court affirmed. The Nevada Supreme Court reversed and remanded for further proceedings concerning the employer's knowledge of a qualifying preexisting impairment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must further remand the matter to the Board for proceedings consistent with the opinion, specifically addressing whether the employer knew of a permanent condition hindering employment and whether knowledge of a qualifying preexisting permanent impairment could fairly and reasonably be inferred from the written record.

CASES CITED

- Elizondo v. Hood Mach., Inc., 129 Nev. 780, 312 P.3d 479 (2013)
- Taylor v. State, Dep't of Health & Hum. Servs., 129 Nev. 928, 314 P.3d 949 (2013)
- Collins Disc. Liquors & Vending v. State, 106 Nev. 766, 802 P.2d 4 (1990)
- Nev. Pub. Emps. Ret. Bd. v. Smith, 129 Nev. 618, 310 P.3d 560 (2013)
- Wright v. State, Dep't of Motor Vehicles, 121 Nev. 122, 110 P.3d 1066 (2005)
- City of Reno v. Reno Police Protective Ass'n, 118 Nev. 889, 59 P.3d 1212 (2002)
- Holiday Ret. Corp. v. State, Div. of Indus. Relations, 128 Nev. 150, 274 P.3d 759 (2012)
- S. Nev. Homebuilders Ass'n v. Clark Cty., 121 Nev. 446, 117 P.3d 171 (2005)
- VECO Alaska, Inc. v. State, Dep't of Labor, Div. of Workers' Comp., Second Injury Fund, 189 P.3d 983 (Alaska 2008)
- Lederer v. Viking Freight, Inc., 193 Or. App. 226, 89 P.3d 1199 (2004)