

SUPREME COURT OF OREGON

Rash v. McKinstry Co.

331 Or. 665 (2001) · No. SC S46514 · Decided March 15, 2001

SUMMARY

The Oregon Supreme Court held that an insurer's statutory lien against a claimant's third-party recovery is a matter potentially arising out of a workers' compensation claim under ORS 656.236(1) (a). Because the Claim Disposition Agreement did not expressly preserve the lien, the agreement extinguished it. The court reversed the Court of Appeals and the Workers' Compensation Board and remanded with instructions to dismiss the insurer's petition.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Riggs, J.; Carson, Chief Justice; Gillette, J.; Durham, J.; Kulongoski, J.; Leeson, J.
JURISDICTION	Oregon
DECIDED	March 15, 2001
DOCKET	SC S46514
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Claimant sought review of a Court of Appeals decision affirming a Workers' Compensation Board order requiring him to pay the insurer \$124,716.73 from a third-party settlement. The Oregon Supreme Court reviewed the case for errors of law.
STANDARD OF REVIEW	Review for errors of law under ORS 656.298(7) and ORS 183.482(8) (a).
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential.
PARTIES	Benny H. Rash v. McKinstry Company, Liberty Northwest Insurance Corporation

TOPICS

- workers compensation
- statutory interpretation
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether an insurer's statutory lien against a claimant's recovery from a third party is a matter potentially arising out of a workers' compensation claim under ORS 656.236(1)(a).
2. Whether a claim disposition agreement extinguishes that statutory lien when the agreement does not expressly preserve it.

HOLDINGS

1. An insurer's lien against a claimant's recovery from a third party is a matter potentially arising out of a workers' compensation claim within the meaning of ORS 656.236(1)(a).
2. Because the claim disposition agreement did not expressly preserve the insurer's statutory lien, the agreement resolved and extinguished the lien.

KEY QUOTATIONS

*"Thus, we hold that an insurer's lien against a claimant's third-party recovery is a "matter[]" * * * potentially arising out of claims" within the meaning of ORS 656.236(1)(a)."*

"Accordingly, as that lien was not mentioned in the parties' CDA, the lien was "resolved," or extinguished, by the CDA."

"The addition of the word "potentially" means that a CDA resolves all matters that, in the future, could arise out of a claim, not merely the matters currently known to arise out of a claim."

FACTUAL BACKGROUND

Benny H. Rash injured his neck and back in the course and scope of his employment, and the employer's insurer accepted the injuries and paid workers' compensation benefits. After Rash filed a tort action against a third party, he and the insurer entered into a claim disposition agreement that did not expressly preserve the insurer's statutory lien rights. Rash later settled the third-party action for \$400,000, and the insurer sought \$124,716.73 from the settlement proceeds for benefits it had paid.

PROCEDURAL HISTORY

After claimant settled a third-party tort action for \$400,000, Liberty Northwest petitioned the Workers' Compensation Board to recover its statutory lien for benefits paid. The Board ordered claimant to pay \$124,716.73, and the Court of Appeals affirmed. The Oregon Supreme Court reversed both decisions and remanded to the Board with instructions to dismiss the insurer's petition.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals decision and Workers' Compensation Board order were reversed, and the case was remanded to the Board with instructions to dismiss the respondents' petition.

CASES CITED

- Rash v. McKinstry Co., 160 Or. App. 131, 981 P.2d 343 (1999)
- PGE v. Bureau of Labor and Industries, 317 Or. 606, 859 P.2d 1143 (1993)

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