

SUPREME JUDICIAL COURT OF MAINE

Bailey v. City of Lewiston, 2017 ME 160

168 A.3d 762 (Me. 2017) · Decided July 20, 2017

SUMMARY

The Maine Supreme Judicial Court affirmed the Workers' Compensation Board Appellate Division's decision vacating a decree that reduced Michael F. Bailey's permanent impairment rating from 32% to 0%. The court held that res judicata barred relitigation of the permanent impairment level established in a prior final decree. It further held that the changed-circumstances standard applicable to incapacity benefits did not apply to a permanent impairment determination.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Jabar, J.; Alexander, J.; Gorman, J.; Hjelm, J.; Humphrey, J.; Mead, J.; Saufley, C.J.
JURISDICTION	Maine
DECIDED	July 20, 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	The City appealed the Workers' Compensation Board Appellate Division's decision vacating a hearing officer's decree that granted the City's petition to determine Bailey's permanent impairment and reduced his impairment rating to zero percent. The Supreme Judicial Court granted appellate review.
STANDARD OF REVIEW	The court reviews the Appellate Division's decision under established principles of administrative law, except for the hearing officer's or administrative law judge's factual findings. The court affords appropriate deference to the Appellate Division's reasonable interpretation of the workers' compensation statute and will uphold that interpretation unless the statute's plain language and legislative history compel a contrary result.
PRECEDENTIAL VALUE	published and precedential
PARTIES	City of Lewiston, Cannon Cochran Management Services v. Michael F. Bailey

TOPICS

workers compensation

administrative law

statutory interpretation

appellate procedure

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether res judicata bars relitigation of an employee's permanent-impairment level after that level has been established by a final Workers' Compensation Board decree.
2. Whether the changed-circumstances test applies to a petition seeking to redetermine permanent impairment or maximum medical improvement.
3. Whether the Appellate Division correctly vacated the hearing officer's decree reducing Bailey's permanent-impairment rating to zero percent.

HOLDINGS

1. A final Workers' Compensation Board determination establishing an employee's maximum medical improvement and permanent-impairment level is subject to res judicata and issue preclusion; absent specific statutory authority, the Board may not redetermine those findings.
2. The changed-circumstances test applicable to petitions to increase or decrease compensation does not apply to a petition seeking to relitigate an established permanent-impairment level.

KEY QUOTATIONS

"It is well established that a valid judgment entered by a court, if not appealed from, generally becomes res judicata and is not subject to later collateral attack." (168 A.3d at 765-766)

"Likewise, 'valid and final decisions of the Workers' Compensation Board are subject to the general rules of res judicata and issue preclusion.'" (168 A.3d at 766)

"Absent specific statutory authority, the Board may not reopen or amend a final decision." (168 A.3d at 766)

"If a party were able to disturb a permanent impairment finding so as to either terminate an employee's eligibility to receive ongoing benefits or award such eligibility after it had already been denied, the statute would be completely circumvented and the provisions creating the temporal dichotomy rendered superfluous." (168 A.3d at 767)

FACTUAL BACKGROUND

Michael F. Bailey began working as a Lewiston firefighter in 1976 and suffered a respiratory work injury in 2001, later diagnosed as reactive airways deficiency syndrome. In 2007, the Workers' Compensation Board found that Bailey had reached maximum medical improvement and sustained a 32% permanent impairment, making him eligible for ongoing partial incapacity benefits without the statutory temporal cap. The City did not

appeal that decree. In 2013, the City sought a new permanent-impairment determination based on an updated medical examination reporting a zero-percent impairment.

PROCEDURAL HISTORY

Bailey suffered a work-related respiratory injury and received partial incapacity benefits. In 2007, a Workers' Compensation Board hearing officer determined that Bailey had reached maximum medical improvement and had a 32% permanent impairment; the City did not appeal. In 2013, the City petitioned to determine Bailey's permanent impairment, relying on an updated medical examination indicating a zero-percent impairment. The hearing officer granted the petition, but the Appellate Division vacated the decree, holding that the 2007 determination was final and that res judicata barred relitigation. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Freeman v. NewPage Corp., 2016 ME 45, ¶ 5, 135 A.3d 340
- Kroeger v. Department of Environmental Protection, 2005 ME 50, ¶ 7, 870 A.2d 566
- Hackett v. Western Express, Inc., 2011 ME 71, ¶ 9, 21 A.3d 1019
- Guiggey v. Great Northern Paper, Inc., 1997 ME 232, ¶ 10, 704 A.2d 375
- Standish Telephone Co. v. Saco River Telephone & Telegraph Co., 555 A.2d 478, 481 (Me. 1989)
- Grubb v. S.D. Warren Co., 2003 ME 139, ¶¶ 7, 9, 837 A.2d 117
- Guarantee Fund Management Services v. Workers' Compensation Board, 678 A.2d 578, 583 (Me. 1996)
- Hird v. Bath Iron Works Corp., 512 A.2d 1035, 1038 (Me. 1986)
- McIntyre v. Great Northern Paper, Inc., 2000 ME 6, ¶¶ 1, 5-6, 743 A.2d 744
- Folsom v. New England Telephone & Telegraph Co., 606 A.2d 1035, 1036-1038 (Me. 1992)
- Morse v. Fleet Financial Group, 2001 ME 142, ¶ 5, 782 A.2d 769
- State v. Thompson, 2008 ME 166, ¶ 12, 958 A.2d 887
- Dunphe v. O'Connor, 1997 ME 147, ¶ 4, 697 A.2d 421