

SUPREME COURT OF NEBRASKA

Maria Cruz-Morales v. Swift Beef Company, 275 Neb. 407

746 N.W.2d 698 (2008) · No. No. S-07-812 · Decided April 4, 2008

SUMMARY

The Nebraska Supreme Court held that the Nebraska Workers' Compensation Court has statutory authority to enter default judgments under Neb. Rev. Stat. § 48-162.03(1). It further held that Workers' Compensation Court Rule 3 required notice of a default-judgment motion and hearing to the defaulting party, even though the notice was sent to the wrong address here. The court reversed the review panel's judgment and remanded with directions to vacate the default judgment and award.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Connolly, J.; Heavican, C.J.; Wright, J.; Gerrard, J.; Stephan, J.; McCormack, J.; Miller-Lerman, J.
JURISDICTION	Nebraska
DECIDED	April 4, 2008
DOCKET	No. S-07-812
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Swift Beef appealed from a Nebraska Workers' Compensation Court review panel judgment affirming a trial judge's default judgment and award. The Nebraska Supreme Court considered whether the compensation court had authority to enter a default judgment and whether Swift Beef was entitled to notice of the default-judgment motion and hearing.
STANDARD OF REVIEW	An appellate court may modify, reverse, or set aside a Workers' Compensation Court decision only when the compensation court acted without or in excess of its powers, the judgment or award was procured by fraud, the record lacks sufficient competent evidence, or the factual findings do not support the order or award. Questions of law are reviewed independently.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Swift Beef Company v. Maria Cruz-Morales

TOPICS

default judgment

service of process

civil procedure

statutory interpretation

appellate procedure

PRACTICE AREAS

workers compensation

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the Nebraska Workers' Compensation Court has statutory authority to enter a default judgment when a party fails to answer or appear.
2. Whether Workers' Compensation Court Rule of Procedure 3 requires a defaulting party to receive notice of a motion for default judgment and the hearing on that motion.
3. Whether the review panel erred in affirming the default judgment and award despite Swift Beef's lack of notice.

HOLDINGS

1. The Nebraska Workers' Compensation Court has statutory authority to enter a default judgment when a party fails to answer or appear because Neb. Rev. Stat. § 48-162.03(1) authorizes the court to rule on any motion except motions for new trial or reconsideration, and a default-judgment motion is not within either exception.
2. A defaulting party in a Nebraska workers' compensation proceeding must receive notice of the motion for default judgment and the hearing under Workers' Compensation Court Rule of Procedure 3. Because Swift Beef did not receive that notice, the compensation court acted without or in excess of its powers in entering and affirming the default judgment.

KEY QUOTATIONS

“Therefore, we conclude that the Workers' Compensation Court has statutory authority to enter default judgments.” (at 704)

“At a minimum, the Workers' Compensation Court's rules should provide the procedural protections that apply in the trial courts of this state.” (at 706)

“We conclude that under § 48-162.03(1), the Workers' Compensation Court has authority to enter default judgments, but the defaulting party must receive notice of the motion for default judgment under Workers' Compensation Court rule 3.” (at 707)

FACTUAL BACKGROUND

Cruz-Morales alleged that she injured her back in a September 2005 slip-and-fall accident while working for Swift Beef. Swift Beef was properly served with the petition but did not answer. Cruz-Morales moved for default judgment, and notice of the motion and hearing was sent to an incorrect post-office box associated with a former third-party claims administrator and another company. Swift Beef did not receive notice of the motion or

hearing before the trial judge entered a default judgment awarding, among other benefits, future medical care, vocational rehabilitation, and compensation based on a 69-percent loss of earning capacity.

PROCEDURAL HISTORY

Cruz-Morales filed a workers' compensation petition after a workplace injury. Swift Beef failed to answer, and the trial judge entered a default judgment and award after a hearing at which Swift Beef did not appear. Swift Beef moved to stay, correct, and vacate the judgment, arguing lack of statutory authority and lack of notice; the trial judge denied the motions. The review panel affirmed, and Swift Beef appealed to the Nebraska Supreme Court, which reversed and remanded with directions to vacate the default judgment and award.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the review panel's judgment and remand to the review panel for further remand to the trial judge, with directions to vacate the default judgment and award and conduct proceedings consistent with the opinion.

CASES CITED

- *Lowe v. Drivers Mgmt., Inc.*, 274 Neb. 732, 743 N.W.2d 82 (2007)
- *Zach v. Nebraska State Patrol*, 273 Neb. 1, 727 N.W.2d 206 (2006)
- *State on Behalf of A.E. v. Buckhalter*, 273 Neb. 443, 730 N.W.2d 340 (2007)
- *Phillips v. Monroe Auto Equip. Co.*, 251 Neb. 585, 558 N.W.2d 799 (1997)
- *Belle Terrace v. State*, 274 Neb. 612, 742 N.W.2d 237 (2007)