IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT KNOXVILLE
May 29, 2007 Session

WILLARD DICKERSON v. INVISTA SARL

Direct Appeal from the Chancery Court for Hamilton County
No. 04-1187 W. Frank Brown, III, Chancellor

Filed October 18, 2007

E2006-02144-WC-R3-WC - Mailed August 3, 2007

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tennessee Code Annotated section 50-6-225(e)(3) for a hearing and a report of findings of fact and conclusions of law. The employee alleged that he suffered a compensable injury as a result of a fall at his workplace. The trial court held that the injury was not compensable because the fall was idiopathic and was not associated with a hazard of the employment. Employee appeals, contending that the evidence preponderates against the finding of the trial court. We affirm the judgment.

Tenn. Code Ann. § 50-6-225(e) (Supp. 2006) Appeal as of Right; Judgment of the Chancery Court Affirmed

JON KERRY BLACKWOOD, SR. J., delivered the opinion of the court, in which GARY R. WADE, J. and JERRY SCOTT, SR. J., joined.

Doug S. Hamill, Chattanooga, Tennessee, for the appellant, Willard Dickerson.

Gerard Michael Siciliano, Chattanooga, Tennessee, for the appellee, Invista Sarl.

MEMORANDUM OPINION
1. Factual and Procedural Background

Willard Dickerson ("Employee") was a unit manager for Invista Sarl ("Employer"). The event at issue occurred on July 14, 2004. Employee was walking up a staircase which led to his office. The subject of this dispute is the cause of the fall that occurred on that date. Employee testified that he stumbled, felt his knee pop and fell down several steps, striking his right knee, shin, ankle, and hip. He was given immediate treatment by a plant nurse. He was then transported by Employer's Safety Director to a clinic, where he was examined by Dr. Steven Musick. Dr. Musick's record from that date provides a different version of events. It states that Employee:

> was walking up the steps, holding onto the handrail and he was actually using the handrail to assist to pull him up, when his right knee buckled while he was ascending the stairs. There was no slip, trip or stumble, but after the knee buckled...he did have to lower himself quickly to the floor....

On the next day, Employee was seen by Dr. William Hartley of the Center for Sports Medicine and Orthopaedics. The history in Dr. Hartley's note differs from Employee's trial testimony and also from Dr. Musick's note of the previous day, stating that Employee "complains of a several week history of increased pain in his knee."

It is not disputed that employee had a long history of knee problems. He had at least two prior surgeries on the knee, most recently in 2001. Medical records from that time indicate that he had been diagnosed with arthritis and walked with a limp.

After the July 2004 injury, Employee was seen by several orthopaedic surgeons. Dr. Michael Tew recommended a total knee replacement. Employer denied the claim. Employee filed this lawsuit and then a motion to require that Employee provide medical treatment, specifically the proposed knee replacement surgery.

Dr. Carl Dyer and Dr. Earl McElheney testified by deposition. Dr. Dyer opined that the incident of July 14, 2004, had aggravated Employee's pre-existing arthritis by causing an exacerbation of pain. He also noted the presence of a "subchondral reactive edema" which was consistent with a trauma to the knee. However, Dr. Dyer did not think that Employee required a knee replacement at the time he examined him in August 2005.

Dr. McElhaney did not believe that Employee's condition was caused or aggravated by the work injury. He considered the subchondral reactive edema cited by Dr. Dyer to be consistent with degenerative changes. He opined that Employee possibly needed a knee replacement prior to the July 2004 injury.

The motion for medical treatment was heard by the trial court on June 12 and July19, 2006. The trial court issued its ruling from the bench on August 2, 2006. The court found that Employee's injury did not arise from his employment because the fall was idiopathic; that the stairs that he fell on did not constitute a hazard associated with the employment; and that he did not strike his knee on the steps as a result of the fall. The trial court added that if Employee had struck his knee on the steps, the injury would have been compensable as an aggravation of his pre-existing condition which accelerated the need for knee replacement surgery. An order was entered on September 13, 2006, denying Employee's motion and dismissing the complaint. This appeal followed.

2. Issue Presented

Did the trial court err in finding that Employee's injury did not arise from his employment?

3. Scope of Review

The standard of review in workers' compensation is de novo on the record, with a presumption of the correctness of the trial court's ruling, unless the preponderance of the evidence is contrary. Tenn. Code Ann. § 225(e)(2)(Supp. 2006); Mahoney v. NationsBank of Tenn., N.A., 158 S.W.3d 340, 343 (Tenn. 2005). When the trial court has seen the witnesses and heard their testimony, especially where issues of credibility and the weight of testimony are involved, the appellate court must extend considerable deference to the trial court's factual findings. Id.; Humphrey v. David Witherspoon, Inc., 734 S.W.2d 315, 315 (Tenn. 1987). As to documentary evidence such as records and depositions of expert witnesses, appellate courts may make an independent assessment of the credibility of the documentary proof it reviews without affording deference to the trial court's findings. Orman v. Williams Sonoma, Inc., 803 S.W.2d 672, 676 (Tenn. 1991).

4. Analysis

An "idiopathic fall" is said to occur when the fall is caused by a condition of unknown origin. The cases in which this issue arises generally involve either an unexplained seizure or fainting episode, e.g. Sudduth v. Williams, 517 S.W.2d 520 (Tenn. 1974), or a knee giving way without explanation, e.g. Greeson v. Am. Lava Corp., 216 Tenn. 461, 392 S.W.2d 931 (Tenn. 1965). An injury caused by such a fall does not arise from the employment. So, an unexplained fall onto a bare floor is not compensable. Sudduth, 517 S.W.2d at 523. However, if the work environment contains an additional risk element, for example, dangerous machinery or heights, that enhances the injury that would have otherwise occurred, the resulting injury will be compensable. See Phillips v. A&H Const. Co., Inc., 134 S.W.3d 145, 150 (Tenn. 2004).

In contrast, a fall is not idiopathic if it is caused by some hazard or condition associated with the employment, such as a patch of ice at the workplace, and injuries caused by such a fall are compensable. See Hankins v. Camel Mfg. Co., 492 S.W.2d 212 (Tenn. 1973).

In this case, the employee testified that there were no slick spots, loose boards or similar hazards on the stairs when he fell. He either stumbled, or his knee gave way. The facts are similar to those in Greeson, supra. In that case, the employee also fell while ascending some stairs. "[H]e caught one hand on the steps and caught the rail with his other hand." Greeson, 392 S.W.2d at 934. The Court noted that the employee did not fall down the stairs or "flat on his face" and held that his injuries did not arise from his employment. The sequence described in Greeson closely resembles that contained in the notes of Dr. Musick.

We note that the record contains several descriptions of the sequence of events on July 14 which vary from each other in significant detail. A finding by the trial court that Employee had struck his leg on one or more steps during his fall would have supported, though not mandated, a finding of compensability. However, the trial court did not accept that particular version of events. Having observed the testimony of Employee, the trial court found the fall to be idiopathic and thus

not compensable. Based upon our independent review of the record, we find that the evidence does not preponderate against that finding.

CONCLUSION

The judgment of the trial court is affirmed. Costs are taxed to Willard Dickerson and his surety, for which execution may issue if necessary.

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JON KERRY BLACKWOOD, SENIOR JUDGE