

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Katherine Anthony,	:	
Petitioner	:	
	:	
v.	:	
	:	
Department of Public Welfare,	:	No. 2754 C.D. 2010
Respondent	:	Submitted: July 8, 2011

BEFORE: HONORABLE DAN PELLEGRINI, Judge
HONORABLE MARY HANNAH LEAVITT, Judge
HONORABLE JOHNNY J. BUTLER, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
JUDGE BUTLER

FILED: August 18, 2011

Katherine Anthony (Claimant) petitions this Court for review of the December 1, 2010 order of the Department of Public Welfare (DPW) adopting in its entirety the recommendation of the Administrative Law Judge (ALJ) denying Claimant's appeal. The issue before the Court is: whether Claimant's Act 534¹ claim is barred by collateral estoppel. For reasons that follow, we affirm the order of the DPW.

Claimant is employed as a residential service aide at Polk Center, a DPW facility for the developmentally disabled. On August 27, 2007, Claimant sustained a work injury when a resident pulled on her arm and she fell against a cupboard. Claimant subsequently filed pro se for workers' compensation benefits and Act 534 benefits. Claimant was initially denied both types of benefits and appealed both denials. On September 29, 2009, a Workers' Compensation Judge

¹ Act of December 8, 1959, P.L. 1718, *as amended*, 61 P.S. §§ 951-952.

(WCJ) awarded Claimant benefits from August 27, 2007 through January 28, 2008. The WCJ found that Claimant recovered from her work-related injuries on January 28, 2008. Claimant returned to her normal duties at work on October 5, 2009. Claimant filed for Act 534 benefits for the period of August 27, 2007 through October 4, 2009. The DPW stipulated that Claimant was entitled to Act 534 benefits from August 27, 2007 through January 28, 2008. On October 28, 2009, Claimant requested a hearing before the DPW. The DPW filed a motion for summary judgment which was denied on May 4, 2010. A hearing was held, and on November 24, 2010, the ALJ recommended Claimant's appeal be denied on the basis of collateral estoppel. On December 1, 2010, the DPW adopted the recommendation of the ALJ. Claimant appealed to this Court.²

Claimant argues that collateral estoppel does not apply. Specifically, Claimant contends that because the standards for recognizing an injury are different under the Workers' Compensation Act³ and Act 534, collateral estoppel cannot apply. We disagree.

[C]ollateral estoppel bars a subsequent lawsuit where (1) an issue decided in a prior action is identical to one presented in a later action, (2) the prior action resulted in a final judgment on the merits, (3) the party against whom collateral estoppel is asserted was a party to the prior action, or is in privity with a party to the prior action, and (4), the party against whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in the prior action.

J.S. v. Bethlehem Area Sch. Dist., 794 A.2d 936, 939 (Pa. Cmwlth. 2002).

Section 1 of Act 534 provides, in pertinent part:

² "This Court's standard of review of a decision by DPW is limited to a determination of whether DPW's adjudication is supported by substantial evidence, is in accordance with the law or whether constitutional rights were violated." *York Cnty. Children and Youth Servs. v. Dep't of Pub. Welfare*, 833 A.2d 281, 286 n.11 (Pa. Cmwlth. 2003).

³ Act of June 2, 1915, P.L. 736, *as amended*, 77 P.S. §§ 1-1041.4, 2501-2708.

Any employe . . . of a State mental hospital . . . under the Department of Public Welfare, *who is injured during the course of his employment by an act of . . . any person confined in such institution . . .* shall be paid, by the Commonwealth of Pennsylvania, his full salary, until the disability arising therefrom no longer prevents his return as an employe of such . . . institution at a salary equal to that earned by him at the time of his injury.

61 P.S. § 951 (emphasis added). Section 301(c)(1) of the Workers' Compensation Act states in pertinent part:

The terms 'injury' and 'personal injury,' as used in this act, shall be construed to mean *an injury* to an employe, regardless of his previous physical condition, *arising in the course of his employment and related thereto*

77 P.S. § 411 (1) (emphasis added).

Here, the issue of whether Claimant recovered from her injury on January 28, 2008 is the same in both actions. That issue was actually litigated and necessarily decided in the workers' compensation case. The workers' compensation case ended with a final order on the merits. Claimant was a party to that action, and had a full and fair opportunity to litigate the issue in the prior action. Clearly, all four factors for collateral estoppel are met. Thus, resolution of the issue in question in the workers' compensation case bars relitigation of the same issue in the Act 534 action.

The standards for recognizing an injury under both acts is substantially similar in that they both involve work-related injuries. The fact that Act 534 requires the injury to be caused by a resident while the workers' compensation act does not, does not affect the issue of whether Claimant fully recovered from that injury. The issue of recovery is identical. Accordingly, the DPW did not err in determining that Claimant's Act 534 claim is barred by collateral estoppel.

For all of the above reasons, the order of the DPW is affirmed.

JOHNNY J. BUTLER, Judge

