

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT KNOXVILLE
May 17, 2010 Session

WAYNE MORAN v. FULTON BELLOWS & COMPONENTS, INC.

**Appeal from the Circuit Court for Knox County
No. 3-559-08 Wheeler Rosenbalm, Judge**

No. E2009-01923-WC-R3-WC - Filed August 17, 2010

Employee alleged that he sustained hearing loss as a result of his work for employer. He filed a civil action 94 days after an impasse was reached at a benefit review conference. The trial court granted employer's motion to dismiss on the basis of the 90-day statute of limitations, Tenn. Code Ann. § 50-6-203(g)(1) (2008). On appeal, employee contends that the report of the benefit review conference was never "filed with the commissioner" of Labor and Workforce Development as required by the statute and that the 90-day limitation period therefore never began to run. We affirm the judgment.¹

Tenn. Code Ann. § 50-6-225(e) (2008) Appeal as of Right; Judgment of the Circuit Court Affirmed

WALTER C. KURTZ, SR. J., delivered the opinion of the Court, in which GARY R. WADE, J., and JON KERRY BLACKWOOD, SR. J., joined.

T. Scott Jones and Chris W. Beavers, Knoxville, Tennessee, for the appellant, Wayne Moran.

Ricky L. Apperson, Knoxville, Tennessee, for the appellee, Fulton Bellows & Components, Inc.

MEMORANDUM OPINION

¹ This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel pursuant to Tennessee Code Annotated section 50-6-225(e)(3) (2008) for a hearing and a report of findings of fact and conclusions of law.

Factual and Procedural Background

Wayne Moran (“Employee”) alleges that he sustained a gradual hearing loss while working for Fulton Bellows & Components, Inc. (“Employer”). His employment ended on August 2, 2004. On July 1, 2005, he filed a request for a benefit review conference (“BRC”) with the Tennessee Department of Labor and Workforce Development concerning his claim. The BRC was conducted on February 13, 2007; however, the claim did not settle at that time. Instead, the workers’ compensation specialist who conducted the BRC issued and filed an impasse report on that date. Employee filed his complaint for workers’ compensation benefits in the Circuit Court of Knox County on May 17, 2007, 94 days after the issuance and filing of the impasse report. That action was subsequently nonsuited, and the case was re-filed on December 5, 2008.

Employer filed a motion for summary judgment, contending that the applicable statute of limitations, Tenn. Code Ann. § 50-6-203(g)(1) (2008), had expired before the May 17, 2007 filing. The statute provides:

If the parties are not able to reach a compromise and settlement of all issues at the benefit review conference held pursuant to this section, the parties shall have ninety (90) days, after the date a written agreement or a written report regarding the conference is filed with the commissioner pursuant to § 50-6-240, to file a complaint with a court of competent jurisdiction as provided in § 50-6-225. The division of workers’ compensation shall maintain an official record of the date on which a written agreement or written report is filed with the commissioner and supply the information to the parties or the appropriate court upon request of either the parties or the court.

Id.

Employer’s motion was supported by Employee’s responses to requests for admissions, which established the facts set out above, and also by the affidavit of Richard Murrell, Assistant Director of the Benefit Review Program for the Department of Labor and Workforce Development. His affidavit states, in pertinent part:

6. According to Tennessee Code Annotated section 50-6-240(c) [(2008)], “The workers’ compensation specialist shall file the signed agreement and report [of the Benefit Review Conference] with the commissioner [of Labor and Workforce Development] and the court as appropriate.

7. For purposes of Tennessee Code Annotated section 50-6-240, the

issuance/generation of the Benefit Review Conference Report constitutes the filing of the Benefit Review Conference Report with the Commissioner of the Tennessee Department of Labor and Workforce Development. The Benefit Review Program file is the Commissioner's file and there is not a separate filing system. Upon the issuance/generation of the Benefit Review Conference Report by the workers' compensation specialist, an entry is made in the Workers' Compensation System, which maintains a computer record of the resolution.

8. For purposes of Tennessee Code Annotated section 50-6-240, the issuance of the Benefit Review Report by Mr. Andrew Roberto on February 13, 2007, along with the computer entry and inclusion of the report in the Benefit Review file on February 13, 2007, constituted filing of the report with the Commissioner of the Tennessee Department of Labor and Workforce Development as of February 13, 2007.

Employee did not dispute the factual allegations cited by Employer in support of its motion; he did contend, however, that the 90-day limitation period had never started to run because the BRC Report had never been "filed with the commissioner" of Labor and Workforce Development as required by Tennessee Code Annotated sections 50-6-203(g)(1) and 50-6-240(b) and (c).

The trial court granted Employer's summary judgment motion and dismissed the complaint. Employee has appealed, contending that the trial court incorrectly construed the statute.

Analysis

Because this appeal presents a question of law only, we review the trial court's conclusions de novo with no presumption of correctness. *Gray v. Cullom Mach., Tool & Die, Inc.*, 152 S.W.3d 439, 443 (Tenn. 2004). In its memorandum decision, the trial court stated:

[T]he linchpin of the plaintiff's argument is that the statutory scheme requires the commissioner to set up some special system for recording the dates of the filing of written reports by workers' compensation specialists, and that the commissioner cannot consider the filing of the written report itself in the archives or offices of the Department of Labor as evidence of the date upon which a written report was filed, but I find nothing so restrictive in the statutory language.

...

I don't find any requirement in the statute that the commissioner set apart any separate or special method for filing these records and it appears from the undisputed testimony of Mr. Murrell and the entire record in this case that the filing of this lawsuit in this court came more than 90 days after the benefit review specialist report of February 13, 2007 was filed.

Employee contends that the trial court's interpretation of these sections of the workers' compensation statute is incorrect. In his brief before this Panel, he asserts that the language of Tennessee Code Annotated section 50-6-203(g)(1) "requires something more than simply the issuance of a report and the stamping of a date. Accordingly, it is clear from the record that no actual filing system exists as required by statute[,] and there is no official record of the filing of the Benefit Review Conference Report at issue." Employee asserts that the statute requires the Commissioner of Labor and Workforce Development to establish a system for filing BRC reports which is separate and apart from the system used to file all other documents associated with the BRC process. Moreover, he asserts that this separate system for filing these reports must be physically located at the Commissioner's office and under his direct control. Employee is a "literalist," and he argues that when the statute says to file with the Commissioner, it means to file personally with the Commissioner. Employee offers no statutory or case law to support this assertion.

We start our analysis by noting that the courts generally defer to an administrative agency's interpretations of the law(s) that it administers. *Riggs v. Burson*, 941 S.W.2d 44, 50-51 (Tenn. 1997). Furthermore, Tennessee Code Annotated section 4-4-104(b) (2005) authorizes the commissioners of the state's various departments to "establish and maintain at places other than the seat of government, branch offices for any one (1) or more functions of the commissioner's department," and Tennessee Code Annotated section 4-4-106 (2005) authorizes commissioners to appoint "such officers, assistants and employees as may be necessary to carry on the work of each department." We can find no logical basis for excluding the acceptance of documents for filing and the maintenance of official files from the functions that commissioners in general, or the Commissioner of Labor and Workforce Development in particular, are authorized to delegate to subordinates. Indeed, such ministerial actions are particularly appropriate for delegation.

The Commissioner's interpretation of Tennessee Code Annotated section 50-6-240 is also supported by section 50-6-236 (2008), the section of the statute that creates the workers' compensation specialist program. It directs those specialists to "[e]nsure that all documents and information relating to the employees' wages, medical condition, and any other information pertinent to the resolution of disputed issues are contained in the claim file

at the [BRC].” *Id.* at § 50-6-236(g)(3). This is the only explicit reference in the workers’ compensation statute to the method to be used in maintaining records associated with BRCs. The statute’s wording is consistent with maintenance of a single system of filing, such as that described in the affidavit of Mr. Murrell.

One might consider the filings of legal pleadings as an inexact but useful analogy. Both the Tennessee Rules of Civil Procedure and the Tennessee Rules of Criminal Procedure require that pleadings be filed with the clerk of court. Tenn. R. Civ. P. 3 & 5.06; Tenn. R. Crim. P. 49(c). One would be hard pressed to argue that these rules should be interpreted to indicate that the pleadings must be filed with “the clerk” rather than with an employee in the clerk’s office designated to receive and file pleadings. *See* 4B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1153 (3d ed. 2002); 15A Am. Jur. 2d *Clerks of Court* §§ 40-46 (2000). *See also* 63C Am. Jur. 2d *Public Officers and Employees* § 37 (2009) (stating that ministerial duties may be delegated to deputies or assistants).

Conclusion

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

WALTER C. KURTZ, SENIOR JUDGE

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JUDGMENT

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.

Whereupon, it appeals to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs are taxed to the appellant Wayne Moran and his surety, for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM