

Mountaire Farms, Inc. v. Jessie Pitts
C.A. No. 01A-04-003
June 8, 2001

This 8th day of June, 2001, upon consideration of the Defendant's Motion to Stay, Plaintiff's Response thereto and the oral arguments of counsel, it appears to the Court that:

(1) Jessie Pitts, Plaintiff-Below, Appellee, filed a "Huffman" suit against Mountaire Farms, Inc., Defendant-Below, Appellant, alleging the late payment of workers' compensation benefits. On April 3, 2001, the Court of Common Pleas issued an Order in which the Court entered judgment against the Defendant in the amount of \$2,950.37 and an additional \$2,130.00 in attorney's fees along with pre-judgment and post-judgment interest. An appeal of that judgment was timely filed by the Appellant on April 11, 2001. With this motion, Appellant asks the Court to exercise its discretion and stay enforcement of the judgment entered on April 3, 2001.

(2) Motions to Stay are properly evaluated under Superior Court Civil Rule 62 and the four-pronged preliminary injunction test from *Evans v. Buchanan*.¹ In *Kirpart, Inc. v. Delaware Alcoholic Beverage Control Commission*, the Delaware Supreme Court found that the Court must analyze all the factors of the four-prong test to properly review a motion to stay.² Based on *Kirpart*, proper evaluation of a motion to stay requires the Court to: "(1) make a preliminary assessment of likelihood of

¹ See *Kirpat, Inc. v. Delaware Alcoholic Beverage Control Commission*, Del. Supr., 741 A.2d 356, 357 (1998) (using the *Evans v. Buchanan*, D. Del., 435 F. Supp. 832, 841-842 (1977), test as the standard of review for motions to stay).

² *Id.*

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success on the merits of the appeal; (2) assess whether the petitioner will suffer irreparable injury if the stay is not granted; (3) assess whether any other interested party will suffer substantial harm if the stay is granted; and (4) determine whether the public interest will be harmed if the stay is granted.”³

(3) The first factor to be considered is the likelihood of success on appeal. This factor is not dispositive because it asks the Court to consider the likelihood of success on appeal from a case already decided by this Court on its merits. Few Courts are likely to think that they will reverse themselves, therefore the Supreme Court requires that all four factors be considered. In the immediate case, the Industrial Accident Board decision was appealed to and affirmed by the Superior Court. The Superior Court’s decision was subsequently appealed to the Delaware Supreme Court which affirmed the Superior Court’s decision. While the matter was pending before the Supreme Court, the Appellant sought a stay from the Superior Court decision of May 1, 2000, but did not obtain a stay until September of 2000. In the interim, the Appellee made a demand for payment in July. This demand was not paid and the Appellee filed a “Huffman” suit against the Appellant alleging late payment of benefits owed. The current motion attempts to stay the Court of Common Pleas judgment from that “Huffman” suit. Based upon the track record of this case and

³ *Id.*

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because Appellant has not raised an argument otherwise, the Appellant's likelihood of success on appeal appears questionable at best.

(4) The second factor to be analyzed is whether the Appellant will suffer irreparable injury if the stay is not granted. Appellant alleges that they will suffer irreparable harm because any funds paid to the Appellee would not be recoverable if they are successful on appeal. In *Cunningham v. Acro Extrusion Corp.*, the Superior Court recalled from *Larson's Worker's Compensation Law*, that "[s]ome states have held that the possibility that the employer will not be able to recover payments made from the claimant, if the employer should win the appeal, is not a sufficient showing of irreparable harm by itself."⁴ Appellee points out that a debt collection action and wage garnishment would be available to collect any benefits paid should the Appellant be successful on appeal. The Court finds that given the amount in question, the Appellee is correct that methods exist to recover any benefits paid. Therefore, the Court finds that Appellant is not likely to suffer irreparable harm from fulfilling the judgment.

(5) The final two factors require the Court to assess whether any other interested party will suffer substantial harm or whether the public interest will be harmed by granting the stay. Appellant has raised no concerns with either of these factors and the Court is not aware of any obvious interested parties or public interests

⁴ *Cunningham v. Acro Extrusion Corp.*, Del. Super., C.A. No. 98C-05-167, Alford, J., (Feb. 28, 2001), Mem. Op. at 3-4.

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related to this matter.

Therefore, after analyzing the four-prong test, the Court finds that Appellant is not likely to succeed on appeal, will not suffer irreparable harm from paying the judgment, no third party will be substantially affected and no public interests are involved. Based upon the Court's analysis of these four factors, the Motion to Stay is **denied**.

IT IS SO ORDERED.

dmh

oc: Prothonotary

xc: Order Distribution