

Commonwealth Of Kentucky

Court Of Appeals

NO. 1997-CA-001374-WC

WILLIAM STAPLETON

APPELLANT

v. PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NOS. WC-95-26196, WC-92-30259, & WC-95-25580

NEW HORIZONS COAL, INC.;
DONNA H. TERRY, CHIEF
ADMINISTRATIVE LAW JUDGE;
SPECIAL FUND; AND WORKERS'
COMPENSATION BOARD

APPELLEES

OPINION
REVERSING AND REMANDING

** ** * * *

BEFORE: GUDGEL, CHIEF JUDGE; BUCKINGHAM AND KNOPF, JUDGES.

BUCKINGHAM, JUDGE. On June 11, 1997, William Stapleton brought the above-styled appeal from an opinion of the Workers' Compensation Board denying his application for additional occupational disease benefits. One of the issues on appeal is the criteria for reopening a coal worker's pneumoconiosis claim following a previous award of retraining incentive benefits. On February 19, 1998, the Supreme Court rendered its opinion in

Campbell v. Universal Mines, Ky., _____ S.W.2d ____ (1988).

Campbell addressed the criteria for reopening a pneumoconiosis claim under KRS 342.125 and established new rules for determining whether a prior retraining benefits recipient is entitled to reopen his case to seek new benefits.

On February 25, 1998, we entered an order holding this case in abeyance pending the finality of Campbell v. Universal Mines. On April 14, 1998, Campbell v. Universal Mines became final.

In view of the new rules established in Campbell, we reverse the decision of the Workers' Compensation Board and remand this case to the Administrative Law Judge for a review of appellant's claims in light of the new criteria established in Campbell v. Universal Mines, supra.

ALL CONCUR.

BRIEF FOR APPELLANT:

Ronald C. Cox
Harlan, Kentucky

BRIEF FOR APPELLEE, NEW
HORIZONS COAL, INC.:

Denise M. Davidson
Hazard, Kentucky

BRIEF FOR SPECIAL FUND:

Benjamin C. Johnson
Louisville, Kentucky