

Commonwealth Of Kentucky

Court Of Appeals

No. 1998-CA-000634-WC

JAMES NULL

APPELLANT

v. PETITION FOR REVIEW OF A DECISION OF
THE WORKERS' COMPENSATION BOARD
FILE NO. WC-95-26714

CITY OF GLASGOW; HONORABLE
ROBERT L. WHITTAKER, DIRECTOR
OF SPECIAL FUND; and
HONORABLE DONALD G. SMITH,
ADMINISTRATIVE LAW JUDGE

APPELLEES

OPINION
AFFIRMING

** ** * * *

BEFORE: GUDGEL, Chief Judge; DYCHE and KNOX, Judges.

DYCHE, JUDGE. The sole question herein is whether a typographical error in a settlement agreement between these parties, as approved by the Administrative Law Judge, is a "mistake" under KRS 342.125 which would permit reopening and correction of the error. The Administrative Law Judge and the Workers' Compensation Board answered in the affirmative, and so do we.

Appellant and his wife, without the advice of counsel, negotiated a settlement of his Workers' Compensation claim with an insurance adjuster. That adjuster then referred the matter to counsel for the drafting of the document memorializing the

agreement. The document, as drafted and executed by the parties, unfortunately misstated the date which periodic payments to appellant were to cease, adding ten years. When the error was discovered, the employer moved to reopen the settlement in order to correct the misstatement. Appellant objected, arguing that this was not the type "mistake" contemplated by the reopening statute.

The Administrative Law Judge disagreed, and reopened the settlement and corrected the error. On appeal, the Workers' Compensation Board affirmed. Appellant maintains that the error herein was not the product of ignorance, as is required in order to reopen. We disagree. The parties (or at least the employer) were ignorant of the misstated date at the time of execution of the agreement; there was no agreement for the benefits to run for the ten additional years. We find no error in the actions of the Administrative Law Judge. To hold otherwise would be contrary to common sense and basic concepts of fair play.

The opinion of the Workers' Compensation Board is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Mike Breen
Bowling Green, Kentucky

BRIEF FOR APPELLEE
SPECIAL FUND:

David W. Barr
Louisville, Kentucky

BRIEF FOR APPELLEE
CITY OF GLASGOW:

Phillipe W. Rich
Louisville, Kentucky