

STATE OF MICHIGAN
COURT OF APPEALS

NATHAN BANKS,

Plaintiff-Appellant,

v

LAB LANSING BODY ASSEMBLY,

Defendant-Appellee.

FOR PUBLICATION

June 1, 2006

9:05 a.m.

No. 259934

WCAC

LC No. 03-000400

Official Reported Version

Before: Murphy, P.J., and O'Connell and Murray, JJ.

O'CONNELL, J.

This case has been remanded by the Supreme Court for consideration as on leave granted. Plaintiff appeals the decision of the Workers' Compensation Appellate Commission (WCAC) affirming the magistrate's dismissal of his claim on the basis of the doctrine of res judicata. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed his initial application for benefits in August 2000, asserting that he was disabled by a May 1, 1995, injury to his right elbow, causing numbness, weakness, and other damage to his elbow, wrist, and hand. In a hearing on April 9, 2002, plaintiff incidentally mentioned that on October 30, 2001, part of a metal door fell on his neck, causing him further injury, but he did not seek to amend his application. Shortly after the magistrate denied his claim, plaintiff filed a second application based on the October 30, 2001, injury. The magistrate dismissed the claim on the basis of the doctrine of res judicata. The WCAC affirmed.

On appeal, our review of a decision of the WCAC is limited to questions of law. If there is any evidence supporting the findings of fact made or adopted by the WCAC, and the WCAC did not misapprehend its administrative appellate role in reviewing decisions of the magistrate, then the courts must treat the WCAC's factual findings as conclusive. *Mudel v Great Atlantic & Pacific Tea Co.*, 462 Mich 691, 709-710; 614 NW2d 607 (2000). A decision is subject to reversal if it is based on erroneous legal reasoning or the wrong legal framework. *Wolf v Gen Motors Corp.*, 262 Mich App 1, 4; 683 NW2d 714 (2004). This case concerns the application of the doctrine of res judicata, which is reviewed de novo as a matter of law. *DiBenedetto v West Shore Hosp.*, 461 Mich 394, 401; 605 NW2d 300 (2000).

The doctrine of res judicata applies to workers' compensation awards, because requiring the worker to "present all of his available claims in a single proceeding is consistent with this

purpose of adjudicating the worker's needs." *Gose v Monroe Auto Equip Co*, 409 Mich 147, 162; 294 NW2d 165 (1980). A workers' compensation award is generally considered an adjudication of the injured worker's condition at the time it is entered, and it is "conclusive of all matters adjudicable at that time" *Hlady v Wolverine Bolt Co*, 393 Mich 368, 375-376; 224 NW2d 856 (1975), quoting 58 Am Jur, Workmen's Compensation, § 508. However, a claimant may later raise a different claim or modify an existing award if the employee's physical condition worsens. *Hlady, supra* at 376. These rules presuppose that some claims, although originating before the final award, are not "adjudicable" or "available" to the litigant in one, initial adjudication.

In *Gose*, our Supreme Court held that res judicata applies broadly to workers' compensation claims, and added: "Narrow application bars a second action only if the same question was actually litigated in the first proceeding. Broad application bars as well those claims arising out of the *same transaction* which plaintiff could have brought, but did not." *Gose, supra* at 160. This emphasis on the "same transaction" was reiterated and expounded on in *Adair v Michigan*, 470 Mich 105, 124-125; 680 NW2d 386 (2004), in which our Supreme Court reaffirmed our state's acceptance of "the broader transactional test" The Court also stated, "'Whether a factual grouping constitutes a "transaction" for purposes of res judicata is to be determined pragmatically, by considering whether the facts are related in *time, space, origin or motivation*, [and] whether they form a convenient trial unit" *Adair, supra* at 125, quoting 46 Am Jur 2d, Judgments, § 533, p 801 (emphasis and modification in *Adair*).

In the instant case, the two claims were separated by a span of more than 5 1/2 years and apparently occurred in two different places. Although the claims originated from the same relationship and were motivated by a similar desire to recover benefits, the injuries originated from two totally separate incidents. Moreover, the record indicates that plaintiff's claim for benefits from the first accident had been pending for more than one year when the second accident occurred. A hearing on the first accident did not even occur until after another five months passed. Amending the application for a completely different injury to different body parts would have required adjournment of a case already ripe for adjudication so that plaintiff could assemble information from the different doctors treating his neck injury. Under the circumstances, the two injuries were not conveniently packaged for one trial.¹ Therefore, the "transactional" factors weigh heavily in favor of finding that the separate injuries did not arise from the same transaction. Oddly enough, this conclusion is supported by the findings of the WCAC, which nevertheless affirmed the magistrate's dismissal on res judicata grounds.

The record clearly indicates that the magistrate interpreted *Gose* and its subsequent application by the WCAC so broadly that he understood the phrase "claims arising out of the same transaction" to be essentially conflated with the phrase "all claims that accrue before entry

¹ It is noteworthy that if the magistrate had adjourned for amendment and later found that plaintiff was disabled by the first injury, then the delay would have wasted the parties' time and needlessly postponed plaintiff's recovery of benefits.

of a final award." This is not the law. The WCAC confused the matter more by mistaking the transactional approach as being the narrower application of res judicata rejected by *Gose* in favor of a "broader" approach. According to the WCAC, this "broader" approach mandates that a claimant must raise every issue that arises before final judgment or be barred from raising it in the future. Neither *Gose* nor general res judicata principles require so much. According to the WCAC's opinion, if it had applied the transactional approach rather than the "broader" approach of "any claim arising before the final award," it would have reversed the magistrate. Because the transactional approach was the correct legal approach, the WCAC should have applied it to this case.

Reversed.

Murphy, P.J., concurred.

/s/ Peter D. O'Connell

/s/ William B. Murphy