STATE OF MICHIGAN

COURT OF APPEALS

WILLIE B. CLAYTON,

Plaintiff-Appellant,

v

VICKERS, INC., f/k/a EATON HYDRAULICS, a/k/a LIBBEY-OWENS-FORD COMPANY, a/k/a PILKINGTON NORTH AMERICA, INC.,

Defendant-Appellee.

UNPUBLISHED
October 6, 2009

No. 287318
Oakland Circuit Court
LC No. 2007-083808-CZ

Before: Murray, P.J., and Markey and Borrello, JJ.

PER CURIAM.

Plaintiff appeals as of right from the circuit court's order granting defendant's motion for summary disposition. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

In 1989, plaintiff was awarded workers' compensation benefits. The magistrate's 1989 order, finalized by an order entered by the Worker's Compensation Appellate Commission on July 7, 1998, is the operational decision here. The decision granted plaintiff an open award of benefits for his total disability and also awarded "medical expense(s) pursuant to Section 315 as follows: Reasonable and necessary." It is undisputed that plaintiff is current on the disability award weekly payments, and that defendant has paid all claimed medical expenses related to plaintiff's disability, which results from a work-caused psychiatric condition.

Plaintiff filed a two-count complaint in the circuit court, asking the court to enter a judgment renewing his worker's compensation order (Count I) and to enforce his existing award (Count II). Plaintiff asserts there are issues of fact concerning "unresolved medical expenses," particularly for his diabetes and hypertension. According to plaintiff, he is simply seeking to "implement" the existing award, not to modify it, so jurisdiction in the circuit court was proper, rather than in the administrative tribunal. Plaintiff's Count I is based on his theory that he needs

to renew his award before the ten-year period of limitations, MCL 600.5809(3),[1] expires, or else he will not be able to later enforce the award, if that becomes necessary. He asserts that MCL 418.863 entitles him to an enforceable judgment, entered by the circuit court.[2] Defendant cannot provide "proof of payment" because of the nature of an open award: it has not all been paid yet. Thus, plaintiff believes that the circuit court was required to "render judgment in accordance with the order" from the administrative tribunal.

Defendant moved for summary disposition, arguing that: (1) plaintiff does not have a "judgment" that can be renewed under MCL 600.5809; all he has is a final decision issued by an administrative agency; (2) the circuit court was without authority to enforce the award because plaintiff did not present a "certified copy" of it, as required by MCL 418.863, and (3) while it is impossible to prove that an open award is completely paid, there is no evidence that defendant failed to pay any outstanding bills.

The circuit court agreed with defendant, concluding that a circuit court judgment was not proper unless defendant was not paying, and that any change in the existing award had to go through the magistrate first.

We review de novo a trial court's decision to grant or deny a motion for summary disposition. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). Statutory interpretation is a question of law that we also consider de novo on appeal. *Detroit v Ambassador Bridge Co*, 481 Mich 29, 35; 748 NW2d 221 (2008).

Plaintiff's arguments are without merit. He does not have a judgment in need of renewal; worker's compensation awards are administrative decisions. Moreover, plaintiff does not need a judgment at this point because defendant is paying everything it is required to pay. To the extent plaintiff asserts (without factual support) that defendant is *not* paying everything it should, there

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[1] In particular, plaintiff identifies as relevant the following statutory language:

> [T]he period of limitations is 10 years for an action founded upon a judgment or decree rendered in a court of record of this state, or in a court of record of the United States or of another state of the United States, from the time of the rendition of the judgment or decree. [MCL 600.5809(3).]

[2] MCL 418.863 reads:

> Any party may present a certified copy of an order of a worker's compensation magistrate, an arbitrator, the director, or the appellate commission in any compensation proceeding to the circuit court for the circuit in which the injury occurred, or to the circuit court for the county of Ingham if the injury was sustained outside this state. The court, after 7 days' notice to the opposite party or parties, shall render judgment in accordance with the order unless proof of payment is made. The judgment shall have the same effect as though rendered in an action tried and determined in the court and shall be entered and docketed with like effect.

is a dispute over what medical expenses should be paid, and plaintiff needs to seek recourse with the administrative agency. After that he may either appeal that decision or seek enforcement if defendant does not comply with it. MCL 418.841(1) ("Any dispute or controversy concerning compensation or other benefits shall be submitted to the bureau and all questions arising under this act shall be determined by the bureau or a workers' compensation magistrate, as applicable.") The circuit court has no authority to modify a worker's compensation award. *Bush v Detroit*, 129 Mich App 658, 661; 341 NW2d 859 (1983).

To the extent plaintiff seeks to expand the coverage of his medical benefits on the theory that he is entitled to all of his "reasonable and necessary" medical expenses, even those unrelated to his work, his claim in the circuit court again fails. Employers are not liable for compensation unrelated to employment.

> "The workers' compensation law does not provide compensation for a person afflicted by an illness or disease not caused or aggravated by his work or working conditions. . . . Unless the work has accelerated or aggravated the illness, disease or deterioration and, thus, contributed to it, or the work, coupled with the illness, disease or deterioration, in fact causes an injury, compensation is not payable." [*Rakestraw v Gen Dynamics Land Sys*, 469 Mich 220, 226; 666 NW2d 199 (2003), quoting *Kostamo v Marquette Iron Mining Co*, 405 Mich 105, 116; 274 NW2d 411 (1979).]

If plaintiff's condition has worsened, the burden is on him to establish that the symptom complained of is causally linked to an injury that arises "out of and in the course of employment" in order to be compensable and seek an increased award from the administrative agency. *Rakestraw*, *supra* at 225. This he must do before the worker's compensation magistrate.

Defendant may tax costs, having prevailed in full. MCR 7.219(A).

Affirmed.

/s/ Christopher M. Murray
/s/ Jane E. Markey
/s/ Stephen L. Borrello