STATE OF MINNESOTA
IN COURT OF APPEALS
A06-2137

Brian Lindsay,
Respondent,

v.

St. Olaf College, et al.,
Appellants,

Labconco Corporation, et al.,
Defendants.

Filed January 29, 2008
Affirmed
Klaphake, Judge

Rice County District Court
File No. 66-C6-03-001557

Frank R. Berman, 701 Fourth Avenue South, Suite 500, Minneapolis, MN 55415; and

Eric J. Magnuson, Kari S. Berman, Briggs and Morgan, P.A., 2200 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402-2157 (for respondent)

Michael S. Ryan, Christopher J. Willey, Murnane Brandt, 30 East Seventh Street, Suite 3200, St. Paul, MN 55101 (for appellants)

Considered and decided by Shumaker, Presiding Judge; Klaphake, Judge; and Worke, Judge.

U N P U B L I S H E D O P I N I O N

KLAPHAKE, Judge

This appeal arises out of tort claims asserted against appellants St. Olaf College (St. Olaf) and chemistry professor Patrick Riley by respondent Mark Lindsay, who was severely injured while participating in St. Olaf's summer research program. Lindsay was performing a multiple-step procedure to clean, or "quench," a chemistry flask when the flask exploded, spraying chemical debris toward Lindsay and igniting his clothes. Lindsay asserted claims against St. Olaf, Riley, and several other defendants, who all moved for summary judgment. The district court granted summary judgment to all defendants, except for St. Olaf and Riley. Lindsay's appeal of those judgments is addressed in a separate appeal. *See Lindsay v. Labconco Corp.*, No. A07-2461 (Minn. App. Jan. 29, 2008).

St. Olaf and Riley also moved for summary judgment, arguing that the district court lacked subject-matter jurisdiction because Lindsay was an employee at the time of the incident and thus had his exclusive remedy in the Minnesota Workers' Compensation Act, Minn. Stat. 176 (2006). The district court denied the motion, finding that there were genuine issues of material fact on whether Lindsay met the statutory definition of an employee at the time of his injuries. We affirm.

D E C I S I O N

This court reviews de novo a district court's decision on a motion for summary judgment. *See Stengel v. E. Side Bev.*, 690 N.W.2d 380, 383 (Minn. App. 2005), *review denied* (Minn. Feb. 23, 2005). The district court's determination of subject-matter

jurisdiction is also subject to de novo review. *Johnson v. Murray*, 648 N.W.2d 664, 670 (Minn. 2002). "Jurisdiction of the district court over the parties and the subject matter in a case entertained by it will be presumed unless want of jurisdiction affirmatively appears on the face of the record or is shown by extrinsic evidence in a direct attack on the judgment or order." *State ex rel. Great N. Ry. v. Dist. Ct.*, 227 Minn. 482, 492, 36 N.W.2d 336, 341 (1949).

While subject-matter jurisdiction is ideally determined at the outset of a case, both the Minnesota Supreme Court and this court have recognized that, under certain circumstances, issues of fact may preclude early resolution. *See Meintsma v. Loram Maint. of Way, Inc.*, 684 N.W.2d 434, 442 (Minn. 2004) (holding that factual issues precluded summary judgment on applicability of workers' compensation act).

Here, the district court concluded that summary judgment was inappropriate because, while the operative facts were largely undisputed, the inferences to be drawn from those facts were in dispute. On undisputed facts, however, the determination of employment status under the workers' compensation act, Minn. Stat. ch. 176 (2006), is "a legal determination, and not a factual inference." *O'Malley v. Ulland Bros.*, 549 N.W.2d 889, 893 (Minn. 1996). While the record facts are primarily undisputed, the facts related to Lindsay's employment are insufficiently developed to support a determination that the district court lacked subject-matter jurisdiction. Thus, we agree with the district court that summary judgment was appropriately denied at this time.

Minnesota "[d]istrict courts are courts of general jurisdiction and have the power to hear all types of civil cases, with a few exceptions." *Irwin v. Goodno*, 686 N.W.2d

878, 880 (Minn. App. 2004). One well-established exception to the district court's jurisdiction is the exclusive remedy provided by the workers' compensation act. When applicable, the act deprives the district court of jurisdiction over personal-injury claims. Minn. Stat. § 176.031. The act applies only to workplace injuries suffered by an "employee," defined as "any person who performs services for another for hire." Minn. Stat. § 176.011, subd. 9. And, while the act expressly treats medical residents as employees eligible for workers' compensation, *see id.* § 176.011, subd. 9(18), it is silent with respect to the treatment of other student workers.

This court has recognized that the determination of whether an individual is "considered an employee or a student depends on the context in which the question (and a cause of action) arises." *Ross v. Univ. of Minn.*, 439 N.W.2d 28, 32 (Minn. App. 1989) (holding that medical resident, although an employee for workers' compensation and taxation purposes, was not an employee for purposes of challenging discontinuation of his residency), *review denied* (Minn. July 12, 1989). In this case, then, the employee-student distinction must be made in the context of the definition provided in the workers' compensation act.[1]

We note that no Minnesota decision directly addresses this issue. Much of the Minnesota caselaw addressing who is an "employee" under the workers' compensation

[1] The parties quarrel over Lindsay's employment status in a number of different contexts, and in particular devote much attention to the appropriate treatment of Lindsay's stipend under the federal tax laws. These peripheral issues, however, do not control the determination of whether Lindsay was an employee within the meaning of the workers' compensation act.

act concerns the distinction between employees and independent contractors. *See, e.g.*, *Newland v. Overland Express, Inc.*, 295 N.W.2d 615, 617 (Minn. 1980). Although not directly analogous, we derive some guidance from these cases. In particular, we note that the most important element of the independent-contract test—the right to control the means and manner of performance—holds some relevance here. *See id.* at 618.

We derive further guidance from Minnesota Supreme Court cases addressing the employment status of nurses obtaining clinical experience at medical institutions, generally finding them to be employees eligible for workers' compensation benefits. *See Krause v. Trustees of Hamline Univ.*, 243 Minn. 416, 418, 68 N.W.2d 124, 126 (1955); *Otten v. State*, 229 Minn. 488, 492, 40 N.W.2d 81, 84 (1949). In *Krause* and *Otten*, the court relied on *Judd v. Sanatorium Comm'n of Hennepin County*, 227 Minn. 303, 305, 35 N.W.2d 430, 432 (1948), a case in which it had addressed the proper characterization of a dietician student who was engaged in a post-graduate internship at the time of her injury. *Krause*, 243 Minn. at 421, 68 N.W.2d at 127, 128; *Otten*, 229 Minn. at 492-93, 40 N.W.2d at 84. In *Judd*, the court acknowledged that the plaintiff was working in a sanatorium "primarily to obtain further practical experience in connection with her internship." *Judd*, 227 Minn. at 307, 35 N.W.2d at 433. Nevertheless, because of the control exercised by the sanatorium over her work, and the "menial or mechanical nature" of the work in which she was engaged at the time of her injury, the court held that she was an employee eligible for workers' compensation benefits. *Id.* at 308, 35 N.W.2d at 434.

Synthesizing these authorities, we conclude that the determination of whether a student is an employee within the meaning of the workers' compensation act requires an evaluation of the purposes and character of the work assigned and performed by that student. This conclusion is consistent with the analysis of courts from other jurisdictions that have addressed the issue. *See, e.g.*, *Land v. Workers' Comp. Appeals Bd.*, 125 Cal. Rptr. 2d 432, 436 (Cal. App. 2002) (holding that student injured while participating in husbandry class was not employee for workers' compensation purpose); *Todd Sch. for Boys v. Indus. Comm'n*, 107 N.E.2d 745, 456 (Ill. 1952) (holding that resident assistant was not employee for workers' compensation purposes).

Our review of the record in this case reveals a dearth of information regarding the nature and character of Lindsay's work during the summer research program at St. Olaf. The parties agree that Lindsay applied for and was accepted into the 10-week program and assigned to work with Professor Riley on chemistry research. In connection with the program, Lindsay was paid a $3,500 stipend and allowed to reside in a campus dormitory without charge.

In its briefing, St. Olaf focuses much attention on demonstrating that only faculty research is conducted in the summer research program, as evidenced by the written and oral summaries of proposed research that the professors provided to students considering the program. In response, Lindsay cites St. Olaf's representations to the organization that funded his stipend that the summer research program was conducted for educational purposes. Lindsay also argues that St. Olaf's professors rarely or never publish research

results, thus implying that the purpose of the summer research program is to educate students.

What neither party provides is any meaningful description of the work Lindsay was assigned to perform or actually did perform during the summer research program. Specifically, there is no detail regarding the activities that could either be characterized as benefitting St. Olaf or, alternatively, the student. Moreover, even with respect to the task that resulted in Lindsay's injuries—the "quenching" of a still pot—we are unable to discern whether his work was "menial or mechanical" in nature, *see Judd*, 227 Minn. at 308, 35 N.W.2d at 434, such that it would be properly characterized as a service provided to St. Olaf, rather than by St. Olaf. *See, e.g.*, *Land*, 125 Cal. Rptr. 2d at 436 (concluding that university, rather than student, was "rendering service" by providing its full panoply of educational resources for the student's use).

The district court is presumed to have jurisdiction until a want of jurisdiction affirmatively appears "on the face of the record or is shown by extrinsic evidence." *State ex rel. Great N. Ry.*, 227 Minn. at 492, 36 N.W.2d at 341. Because the record before us does not support depriving the district court of subject-matter jurisdiction, we affirm the district court's denial of St. Olaf's motion for summary judgment.

Affirmed.