

DWAYNE BECKER, Employee/Appellant, v. WILLMERT, INC. and ST. PAUL FIRE & MARINE INS. CO., S & M TRUCKING, INC. and WAUSAU INS. CO., Employer-Insurer, and R.W. PUCKETT TRUCKING and HARTFORD INS. CO., Employer-Insurer.

WORKERS' COMPENSATION COURT OF APPEALS
JANUARY 30, 1998

HEADNOTES

PERMANENT TOTAL DISABILITY. Where there was no appeal from the compensation judge's finding that the employee was an inmate of a public institution, the judge properly denied the employee's claim for permanent total disability benefits under Minn. Stat. § 176.101, subd. 4.

Affirmed.

Determined by Wilson, J., Wheeler, C.J., and Johnson, J.
Compensation Judge: Bonnie A. Peterson.

OPINION

DEBRA A. WILSON, Judge

The employee appeals from the compensation judge's denial of permanent total disability benefits during the employee's confinement at the Minnesota Sexual Psychopathic Treatment Center. We affirm.

BACKGROUND

The employee sustained a work-related injury to his back on September 13, 1971, while employed by S & M Trucking Co. On May 2, 1974, the employee sustained another injury to his back while employed by Wilmert, Inc.[Wilmert]. Finally, during the period March 22, 1976, to October 10, 1976, the employee suffered a third work-related injury to his back, this time while employed by R.W. Puckett Trucking. Pursuant to Findings and Determination filed on August 17, 1979,¹ the employee was awarded temporary total disability benefits for the period from January 1, 1977, through July 20, 1979, and continuing as warranted, with permanent total disability benefits to commence the week of January 7, 1984. The Findings and Determination apportioned liability between the three employers, and Willmert and its insurer were designated as the paying agent.

¹ The compensation judge's September 19, 1997, Findings and Order inaccurately designates the date as August 17, 1997.

Payment of permanent total disability benefits commenced on January 7, 1984. On May 18, 1990, the employee was incarcerated following a charge of criminal sexual conduct in the first degree. The employee pled guilty and was sentenced to eighty-one months at Stillwater State Prison. In October and November of 1990, the employee contacted the insurer for Willmert and informed them that he was moving to Mexico and that he wanted his permanent total disability checks sent to his bank account in Princeton, Minnesota. The employee contacted the insurer again in June of 1991, but failed to mention his incarceration. Finally, on November 5, 1991, the insurer learned of the employee's incarceration and commenced an investigation to verify that fact. The employee continued to receive permanent total disability benefits, despite his incarceration, until May 25, 1993.

Willmert's insurer eventually commenced an action in Ramsey County, seeking reimbursement from the employee for \$48,168.80 in permanent total disability benefits fraudulently obtained. In October of 1995, the employee was charged with theft of the permanent total disability benefits received by him from May 18, 1990, to May 25, 1993. The employee ultimately pled guilty to this charge.

The employee completed his prison term on November 17, 1994, and since that time has continued to be defined as a sexual psychopathic personality and a sexually dangerous personality pursuant to Minn. Stat. §§ 253B.02, subds. 18a and 18b; 253B.18, subd. 1; and 253B.185, subd. 1 (1994). The employee currently resides in a public institution, the Minnesota Sexual Psychopathic Treatment Center's temporary quarters in Moose Lake, Minnesota, from which he is not free to come and go or to decide to leave or to establish a residence elsewhere.

On June 15, 1995, the employee filed a claim petition seeking permanent total disability benefits continuing from November 17, 1994. In its answer, Willmert and its insurer alleged in part that the employee was not entitled to permanent total disability benefits because he remained within the confines of a public institution and was, therefore, not eligible for benefits pursuant to Minn. Stat. § 176.101, subd. 4.

When the claim petition proceeded to hearing on September 19, 1997, on stipulated facts, the sole issue was whether the employee was entitled to permanent total disability benefits pursuant to Minn. Stat. § 176.101, subd. 4, and Chapter 253B. The compensation judge denied the claim, and the employee appeals.

STANDARD OF REVIEW

[A] decision which rests upon the application of a statute or rule to essentially undisputed facts generally involves a question of law which [the Workers' Compensation Court of Appeals] may consider de novo. Krovchuk v. Koch Oil Refinery, 48 W.C.D. 607, 608 (W.C.C.A. 1993).

DECISION

The employee contends that Minn. Stat. § 176.101, subd. 4, mandates the payment of permanent total disability benefits if an employee is found permanently and totally disabled. The employee argues that, because a judge has found him permanently totally disabled, he is entitled to permanent total disability benefits as a matter of law. We are not persuaded, in that the employee's argument fails to address that portion of Minn. Stat. § 176.101, subd. 4, which provides, In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution The employee did not appeal from the judge's findings that the employee is an inmate confined to a public institution, namely the Minnesota Sexual Psychopathic Treatment Center.² The workers' compensation statute clearly provides that an inmate of a public institution shall not receive permanent total disability benefits while so confined. Therefore, the compensation judge properly denied the employee's claim for permanent total disability benefits during the period of his confinement.

The remainder of the employee's contentions revolve around the employee's interpretation of Chapter 253B and constitutional safeguards afforded to persons committed to public institutions. This court's jurisdiction is limited to questions of law and fact arising under the workers' compensation statutes. Minn. Stat. § 175A.01; Hagen v. Venem, 366 N.W.2d 280, 37 W.C.D. 674 (Minn. 1985). We do not have subject matter jurisdiction to interpret Chapter 253B. Having determined that the compensation judge properly applied Minn. Stat. § 176.101, subd. 4, in denying the employee's claim for permanent total disability benefits, we affirm the judge's decision in its entirety.

² In his brief, the employee raised for the first time the issue of whether a Chapter 253B patient should be defined as an inmate for purposes of Minn. Stat. § 176.101, subd. 4. As this issue was not raised at the hearing or in the notice of appeal, we will not address it. See Hartman v. 3M Co., No. [redacted to remove social security number] (W.C.C.A. Sept. 8, 1992.)