

RICHARD W. FORSETH, Employee, v. KATO ENG'G/RELIANCE ELEC. and AM. HARDWARE MUT. INS. CO., Employer-Insurer/Appellants, and KATO ENG'G/RELIANCE ELEC. and TRAVELERS PROP. & CAS., Employer-Insurer.

WORKERS' COMPENSATION COURT OF APPEALS
OCTOBER 7, 1999

No. [REDACTED SSN]

HEADNOTES

SETTLEMENTS; CONTRIBUTION & REIMBURSEMENT. The compensation judge erred in dismissing a petition by American Hardware Mutual Insurance Company, for contribution and/or reimbursement from Travelers Property & Casualty, on grounds of language in a settlement agreement involving American Hardware and other parties, because Travelers, as a "stranger" to the stipulation, acquired no rights under the stipulation and was not entitled to have the stipulation enforced.

Reversed.

Determined by: Wilson, J., Wheeler, C.J., and Johnson, J.
Compensation Judge: Paul D. Vallant.

OPINION

DEBRA A. WILSON, Judge

American Hardware Insurance Company appeals from the dismissal of its petition for contribution and/or reimbursement from Travelers Property & Casualty Company. We reverse.

BACKGROUND

On about February 28, 1990, the employee allegedly sustained a work-related injury, in the nature of bilateral carpal tunnel syndrome, in the course and scope of his employment with Rockwell/Kato Engineering, a Mankato, Minnesota business. Rockwell/Kato Engineering was also known as Reliance Electric Company, and most of the pleadings and documentation in the division file designate Reliance Electric as the employee's employer. The employer's insurer at the time of the employee's 1990 work injury was American Motorists Insurance/Kemper National Insurance Company [Kemper], which apparently paid various workers' compensation benefits, including benefits for bilateral wrist surgeries.

In the spring of 1997, the employee was examined, on Kemper's behalf, by Dr. Chris Tountas, who reported in part that 50% of the employee's ongoing symptoms were due

to a new work injury culminating in April of 1996. Kemper then filed a petition for joinder of American Hardware Insurance Company [American Hardware]. In that petition, Kemper alleged that American Hardware had provided workers' compensation coverage for Reliance Electric in April of 1996 and was responsible for benefits payable as the result of the new injury found by Dr. Tountas. According to its brief on appeal, American Hardware checked its records, determined that it did insure a Reliance Electric Company in Mankato, and undertook a defense in the matter. Subsequently, in August of 1997, Kemper filed a petition for contribution and/or reimbursement from American Hardware, to which American Hardware responded by denying that the employee had sustained any new injury. Several months later, in March of 1998, the employee filed a claim petition, seeking various benefits from American Hardware and/or Kemper. Two amended claim petitions were later filed by the employee against the same parties. In its answers, American Hardware admitted insurance coverage but denied liability for any injury.

In September of 1998, the employee, Kemper, and American Hardware entered into a stipulation for settlement, settling the employee's claims against the employer and the two named insurers on a full, final, and complete basis, except for future reasonable and necessary nonchiropractic treatment expenses, to be paid by Kemper. Kemper agreed to pay the employee \$102,900, the vast majority of the settlement amount, less attorney fees, with reimbursement from the Special Compensation Fund of \$74,401, representing anticipated supplementary benefits; American Hardware agreed to pay the employee \$10,000. An award on stipulation was issued in October of 1998, and payment was apparently made according to the terms of the stipulation.

Following the settlement, American Hardware evidently notified its insured, Reliance Electric Company, that its premiums would be adjusted, and Reliance responded that it had never employed the employee in this matter and had no information as to the alleged work injury. After further investigation, American Hardware filed a petition for contribution and/or reimbursement from Travelers Property & Casualty Company [Travelers]. In the petition, American Hardware alleged that it had provided insurance coverage to a different Reliance Electric Company, which was also located in Mankato, that the Reliance Electric Company that had employed the employee in the present matter had been insured by Travelers at the time of the employee's alleged 1996 injury, that American Hardware had undertaken a defense and contributed \$10,000 to the September 1998 settlement due to a mistake of fact, and that American Hardware was entitled to reimbursement from Travelers "for all payments and expenses incurred in connection with [its] defense" in the matter.¹

In response to American Hardware's petition, Travelers filed both an answer and a motion to dismiss. In the motion to dismiss, Travelers maintained that American Hardware could not assert a contribution claim against Travelers because American Hardware had admitted, in the settlement agreement, that it had insured the employer on the date of the employee's alleged 1996 work injury. Following hearing on Travelers' motion, a compensation judge of the St. Paul

¹ At oral argument, counsel for American Hardware clarified that the primary claim was for the \$10,000 paid pursuant to the settlement agreement.

Settlement Division of the Office of Administrative Hearings adopted Travelers' position, ruling that American Hardware's claim could not proceed unless and until the award on stipulation was vacated. American Hardware's petition for contribution and/or reimbursement was therefore dismissed. American Hardware 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

In paragraph II of the 1998 stipulation for settlement, the parties agreed as follows:

That the Employee was employed by Rockwell/Kato Engineering, also known as Reliance Electric, under a Minnesota contract for hire on or about April 16, 1996 at an unknown average weekly wage; that Rockwell/Kato Engineering, also known as Reliance Electric was insured for workers' compensation liability in the State of Minnesota on April 16, 1996 by American Hardware Insurance Company.

Relying on this agreement as to insurance coverage, the judge ruled that American Hardware could not pursue a claim for contribution and/or reimbursement from Travelers without first obtaining an order vacating the award on stipulation. American Hardware contends that the judge's decision on this issue is clearly erroneous. We agree.

Stipulations for settlement are contractual in nature. See, e.g., Husnik v. J.C. Penney Co., 57 W.C.D. 264 (W.C.C.A. 1997). What Travelers is essentially seeking here is enforcement of American Hardware's stipulation that it provided insurance coverage to the employer in this matter. However, Travelers was not a party to the settlement agreement, and it is well established in Minnesota that strangers to a contract acquire no rights under that contract.² See Northern Nat'l Bank v. Northern Minnesota Nat'l Bank, 244 Minn. 202, 208, 70 N.W.2d 118, 123 (Minn. 1955); Anderson v. First Northern Nat'l Bank, 361 N.W.2d 116, 118 (Minn. Ct. App. 1985). In other words, a stipulation is only binding as to claims between the parties to the

² An exception to the general rule exists for third-party beneficiaries of a contract if it is shown that the parties intended to benefit the beneficiary. See, e.g., Buchman Plumbing Co., Inc. v. Regents of the Univ. of Minnesota, 298 Minn. 328, 334-35, 215 Minn. 479, 483-84 (1974). There is absolutely no evidence that Travelers, or any other party, was an intended third-party beneficiary here.

agreement. Travelers, which gave no consideration and played no part in the settlement here, has no standing to use the stipulation as a shield against American Hardware's reimbursement claim.

Travelers also argues on appeal that contribution and reimbursement claims are derivative of the employee's claims and that, because further claims by the employee against Reliance Electric Company are barred by the settlement, American Hardware's claims against Travelers are similarly barred. Contribution and reimbursement claims may be precluded where the employee's underlying claims against an employer and insurer have been extinguished by, for example, the running of the statute of limitations or the employee's failure to give timely notice of injury. See, e.g., Martin v. Thermoform Plastics, 46 W.C.D. 473 (W.C.C.A. 1992); Hippler v. MacArthur Co., Inc., slip op. (W.C.C.A. May 21, 1987). However, this is not a case in which the employee's claims have been barred by operation of law. As American Hardware points out, an insurer that has paid benefits may have a valid contribution claim against another insurer, whether or not the employee has been fully compensated for his or her injury. Contribution claims have also been allowed, in at least some cases, where the employee's claims have been satisfied through settlement. See, e.g., Wolk v. Alliant Tech Sys., slip op. (W.C.C.A. July 18, 1997).

Travelers further contends that American Hardware is asking this court to fashion an extra-statutory "equitable remedy" to rectify American Hardware's mistake, asserting that allowing the claim to go forward would require a compensation judge to address issues that "would be virtually impossible to address," such as whether the settlement amount was reasonable, whether American Hardware's defense was reasonable, and whether primary liability would have been established had the matter been litigated. Travelers' arguments in this regard are not persuasive. Contribution and reimbursement claims have long been an "equitable" remedy in the workers' compensation forum. See, e.g., Haverland v. Twin City Milk Producers Ass'n, 273 Minn. 481, 142 N.W.2d 274, 23 W.C.D. 764 (1966). We see no determinative distinction between American Hardware's claim here and the more typical contribution or reimbursement case. As to any potential problems as to evidence or proof, we would only note that American Hardware has the burden of establishing its claim. Simply put, if American Hardware is unable to meet its burden of proof, Travelers will not be ordered to make reimbursement. Also, contrary to Travelers' assertion, American Hardware has not asked this court to order reimbursement, only to allow its claim to proceed to hearing.

It is apparently undisputed that American Hardware mistakenly contributed to a settlement on behalf of an employer that was actually insured by Travelers. After discovering this fact, American Hardware attempted to rectify the error by seeking reimbursement from Travelers. Travelers, however, understandably satisfied with events through the date of the settlement, seeks to invoke a provision in a contract - - to which it was not a party - - to avoid its own contractual obligations as the employer's workers' compensation insurer on the date of the employee's alleged injury. In that the settlement agreement cannot be enforced by Travelers, and in that Travelers has offered no other principled argument or persuasive legal authority that would justify affirming the judge's dismissal of American Hardware's petition, we reverse that decision and hold that American Hardware's reimbursement claim may proceed to hearing on the merits. Whether Travelers may have any equitable defenses, such as laches, is for the compensation judge

to consider. Similarly, we need make no determination here as to whether American Hardware can recover defense costs or expenses beyond the \$10,000 paid pursuant to the stipulation for settlement.