DONALD JOHNSON, Employee, v. YOUNG & DAVIS DRYWALL, INC., SELF-INSURED, Employer, and NORTH DAKOTA WORKERS COMP. BUREAU, Potential Intervenor/Appellant.

WORKERS' COMPENSATION COURT OF APPEALS
AUGUST 8, 2001

No. [REDACTED SSN]

HEADNOTES

INTERVENORS; JURISDICTION - OUT-OF-STATE INJURY; JURISDICTION - SUBJECT MATTER; STATUTES CONSTRUED - MINN. STAT. § 176.361, SUBD. 1. Because no statutory authority exists under the Minnesota Workers' Compensation Act for reimbursement of workers' compensation benefits paid under another state's laws, because case law provides that benefits previously received by the employee in another state be credited against compensation awarded to the employee in this state to avoid any double recovery, and because there were no material facts in dispute, the compensation judge did not err in denying intervention to the North Dakota Workers Compensation Bureau for reimbursement of benefits it had paid to the employee in that state.

Affirmed

Determined by Pederson, J., Wilson, J., and Wheeler, C.J.
Compensation Judge: James E. O'Gorman

OPINION

WILLIAM R. PEDERSON, Judge

The North Dakota Workers Compensation Bureau appeals from the compensation judge's order denying its request to intervene for reimbursement of medical expenses and disability benefits paid to the employee under the workers' compensation laws of North Dakota. We affirm.

BACKGROUND[1]

On April 21, 2000, Donald Johnson [the employee] allegedly sustained a work-related finger injury while working for Young and Davis Drywall, Inc. [the employer], which was self-insured against workers' compensation liability in the state of Minnesota. The employee's injury apparently occurred at a job site in Fargo, North Dakota, and a claim for workers' compensation benefits was submitted to the North Dakota Workers Compensation Bureau [the

[1] The facts as presented here are drawn from the judgment roll and from the briefs submitted by the North Dakota Workers Compensation Bureau and the self-insured employer. No hearing was held in this matter, and therefore no transcript has been generated.

Bureau]. The Bureau accepted liability and apparently paid medical and disability benefits in accordance with North Dakota workers' compensation laws.

On September 14, 2000, the employee filed a claim petition with the Minnesota Department of Labor and Industry, seeking workers' compensation benefits under Minnesota law as a result of the injury of April 21, 2000. On February 23, 2001, the employee filed an amended claim petition, naming the Bureau as a third party that had paid disability or medical benefits related to the claim. At this same time, the employee's attorney sent a letter to the Bureau, advising it that the employee's claim had been filed erroneously in North Dakota and that a claim was then being processed in Minnesota. The attorney went on to state, "I wish to inform you that [the employee] is renouncing any rights that he may have to North Dakota workers' compensation benefits . . . [and the] Bureau can take whatever action it is entitled to take under Minnesota law to intervene in this matter."

About three weeks later, the Bureau filed a motion to intervene in the employee's Minnesota workers' compensation proceeding pursuant to Minn. Stat. § 176.361, to seek reimbursement for medical expenses and disability benefits provided to the employee. Counsel for the Bureau, in an affidavit accompanying its motion, asserted that certain North Dakota statutes provide a statutory basis for its reimbursement claim. The employer's attorney, in a letter responding to the amended claim petition, asserted that Chapter 176 of Minnesota Statutes does not provide jurisdiction for the Bureau's potential intervention interest.

The Bureau's motion to intervene and the employer's letter were referred to a compensation judge at the Office of Administrative Hearings. On April 6, 2001, the judge issued an Order Denying Intervention, essentially concluding that, because he did not have jurisdiction to construe or enforce rights created by the compensation act of North Dakota, he was without jurisdiction to order that the Bureau be joined as an intervenor in this Minnesota proceeding. The Bureau 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 his Order Denying Intervention, the compensation judge concluded that "Minnesota Workers' Compensation judges do not have jurisdiction to determine entitlement to another state['s] workers' compensation benefits or to determine whether an out of state insurer may have improperly or mistakenly paid benefits to the employee under another state's law." On appeal, the Bureau contends that its motion to intervene clearly sets forth its "interest" in the employee's claim, having paid disability and medical benefits in connection with the same injury for which the employee now seeks benefits under Minnesota law. Minn. Stat. § 176.361, subd. 1,

which authorizes intervention in Minnesota workers' compensation proceedings, provides in part that

> a person who has an interest in any matter before the workers' compensation court of appeals, or commission, or compensation judge such that the person may either gain or lose by an order or decision may intervene in the proceeding by filing an application in writing stating the facts which show the interest.

The Bureau argues that, under the plain language of this provision, the Bureau "may intervene in the proceeding." We do not agree.

The essential question for this court is whether the Bureau may either gain or lose by an order or decision rendered under Chapter 176 of Minnesota Statutes. This court has previously held that neither a compensation judge nor this court has jurisdiction to order reimbursement for workers' compensation benefits awarded under another state's laws. See Boothe v. TFE, 55 W.C.D. 353 (W.C.C.A. 1996); Solem v. Ballard Int'l Corp., slip op. (W.C.C.A. July 28, 1995); Evans v. Dave Evans Transp., Inc., slip op. (W.C.C.A. Aug. 24, 1994); Rundberg v. Hirschbach Motor Lines, 51 W.C.D. 193 (W.C.C.A. 1994); Rhoades v. K & C Distrib. Co., 51 W.C.D. 305 (W.C.C.A. 1994); Petterson v. K & C Distrib. Co., 51 W.C.D. 295 (W.C.C.A. 1994). As noted in those cases, Minnesota workers' compensation courts are creatures of statute, and our jurisdiction is limited to interpreting and applying the workers' compensation laws of this state. The Bureau cites no statutory authority under the Minnesota Workers' Compensation Act granting the compensation judge or this court jurisdiction to order a Minnesota insurer, or self-insured employer, to reimburse the Bureau for North Dakota workers' compensation benefits paid to the employee.

In essence, it appears to us that the Bureau and the self-insured employer each has separate and distinct obligations to the employee, based upon its respective state's workers' compensation laws. "Normally, rights created by the compensation act of one state cannot be enforced in another state." Order of the supreme court dated August 18, 1994, attached to Rundberg v. Hirschbach Motor Lines, 51 W.C.D. 193, 208 (W.C.C.A. Minn. 1994). This court has no authority to enforce the provisions of the North Dakota workers' compensation laws cited by the Bureau in support of its motion to intervene.

In Pierce v. Robert D. Pierce, Ltd., 363 N.W.2d 761, 37 W.C.D. 514 (Minn. 1985), the supreme court allowed a Minnesota employer to take a credit for benefits paid to the employee under an Alaska workers' compensation settlement, where the employee had sought similar benefits also against another employer based on the same disabling condition. Citing Follese v. Eastern Airlines, 271 N.W.2d 824, 829, 31 W.C.D. 198, 203 (Minn. 1978), and others,[2] the court

[2] The court directed, "See also Cook v. Minneapolis Bridge Constr. Co., 231 Minn. 433, 43 N.W.2d 792, 16 W.C.D. 198 (1950) (prior award in North Dakota did not bar Minnesota proceeding, with credit given for the North Dakota award); Houle v. Stearns-Rogers Mfg. Co., 279 Minn. 345, 157 N.W.2d 362, 24 W.C.D. 485 (1968) (receipt of compensation in South Dakota

stated, "We have recognized as 'a settled rule' that an award or settlement obtained in one state does not bar 'a successive award in another state, deducting the award or settlement received in the first proceeding from the second.'" Pierce, 363 N.W.2d at 762, 37 W.C.D. at 516. Referring to the cases cited, the court in Pierce stated, "In all these cases the common requirement that benefits previously received by the employee, whether through settlement, award, or voluntary payment in another state, be credited against compensation he receives in this state is clearly intended to avoid the injustice of double recovery." Pierce, 363 N.W.2d at 763, 37 W.C.D. at 517.

Because no statutory authority exists under the Minnesota Workers' Compensation Act for reimbursement of workers' compensation benefits paid under another state's laws, and because case law provides that benefits previously received by the employee in another state be credited against the compensation the employee is awarded in this state, to avoid any double recovery, and because there are no material facts in dispute, we affirm the compensation judge's order denying intervention.

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in giving of a release there did not bar subsequent Minnesota proceeding, with credit given for the amount previously paid employee in South Dakota)."