

**IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION PANEL
AT NASHVILLE**

THOMAS E. RODDY,)	
)	RUTHERFORD CHANCERY
Plaintiff/Appellee)	
)	Hon. Don R. Ash,
v.)	Chancellor
)	
BEAMAN BOTTLING COMPANY OF)	NO. 01S01-9511-CH-00194
NASHVILLE,)	(No. 94WC-1139 Below)
)	
Defendant/Appellant)	

FILED

July 24, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

DISSENTING OPINION

Although the majority opinion does not foreclose the right of the plaintiff to petition the trial court to have a hearing under the provisions of TENN. CODE ANN. § 50-6-241(a)(2), I do not believe it is necessary, in this case, to require such a procedure.

TENN. CODE ANN. § 50-6-241(a)(2) speaks of reconsideration by the trial court of a previous award when the employee has lost employment within 400 weeks after returning to work. In this case, there had been no previous award made. The hearing which we review in this case was the initial hearing concerning the plaintiff's work injury. The plaintiff had returned to work for the defendant after his injury and in the normal course would have been limited to two and a half times the medical impairment rating as provided in TENN. CODE ANN. § 50-6-241(a)(1). The plaintiff, however, lost his employment within 400 weeks after his return to work. This would implicate the provisions of TENN. CODE ANN. § 50-6-241(a)(2).

The trial judge decided it was a wise use of judicial time to determine the entire rights and obligations of the parties in one proceeding. I believe this is the best method to pursue.

The majority challenge the jurisdiction of the trial court to settle the rights of the parties under TENN. CODE ANN. § 50-6-241(a)(2). The trial judge, in my opinion, had jurisdiction of the parties and the subject matter in this case. Where the whole rights and obligations of the parties may be determined in one hearing, I believe it

proper to do so rather than adjudicating a portion of those rights and obligations and leaving the case subject to reconsideration..

Under the holding by the majority, the plaintiff must now file another petition, the defendant must respond and the entire machinery of the judicial process must run its course. I see no reason for this to be done.

I would affirm the judgment of the trial court.

John K. Byers, Senior Judge