

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT JACKSON

AUTTO LEE TAYLOR, SR.) SHELBY CIRCUIT
)
Plaintiff/Appellee,) Hon. Robert A. Lanier,
) Circuit Judge
vs.)
) NO. 02S01-9602-CV-00018
BAILEY-PARKS URETHANE, INC.,)
)
Defendant/Appellant.)

FILED
August 22, 1996
Cecil Crowson, Jr.
Appellate Court Clerk

For the Appellant: _____ For the Appellee: _____
Stephen D. Goodwin Lloyd C. McDougal, III
Baker, Donelson, Bearman & Caldwell Memphis, Tennessee
Memphis, Tennessee

MEMORANDUM OPINION

_____ Mailed:

_____ Members of Panel:

_____ Justice Lyle Reid

Special Judge Joe C. Loser, Jr.

Special Judge Billy Joe White

AFFIRMED

White, Judge

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tennessee Code Annotated section 50-6-225 (e)(3) for hearing and reporting of findings of fact and conclusions of law. In this appeal the employer contends no notice was given and causation was not proven. The trial judge found proper notice and a work-related injury. This panel affirms the judgment of the trial judge.

The Plaintiff testified,

“A. I told him about it. He just sat there and looked at me. He didn't say nothing.

Q. What did you tell him?

A. I told him I hurt my back Friday. I needed to go to the doctor.

Q. Did Mr. Tutor ask you any questions at that time?

A. He asked me where I hurt my back. I said here at the job.” (App. P. 28).

Mr. Tutor testified,

“...He had come to evidently Larry, which is his supervisor. We happened to be standing talking and he come up to us, I guess he was giving notification that he had hurt his back, that he had -- that he needed to go home or get this taken care of, but he had not said anything to Larry individually. He come up to both of us at the same time, which is the right thing for him to do. He needs to report it.” (App. P. 70).

The scope of review is de novo on the record of the trial court, accompanied by a presumption of correctness of the judgment of the trial court, unless the preponderance of the evidence is otherwise. T.C.A. § 50-6-225 (e)(2).

This panel finds that the preponderance of the evidence establishes notice within T.C.A. § 50-6-201 and affirms the trial court.

As to the issue of causation the treating doctor, Dr. Leventhal, testified to a history given him by the employee of a work related injury. (Leventhal Depo. P.11).

The doctor testified on Page 21 as follows:

“Q. Is the condition that you found in your diagnosis of herniated disc consistent with the history he gave you in your first office note?

A. Yes, it is.” (Leventhal Depo. P.21).

The trial court found a preponderance of evidence of causation and the panel agrees with this finding thus affirming this case on both issues. The costs are taxed to the Appellant.

Billy Joe White, Special Judge

CONCUR:

Lyle Reid, Justice

Joe C. Loser, Jr., Special Judge