

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

**FILED**

March 25, 1998

Cecil Crowson, Jr.  
Appellate Court Clerk

BRANDON BRANTLEY,	)	HENDERSON CHANCERY
	)	
Plaintiff/Appellant	)	NO. 02S01-9703-CH-00013
	)	
v.	)	HON. JOE C. MORRIS,
	)	CHANCELLOR
PERSONNEL PLACEMENTS and ,	)	
LUMBERMENS MUTUAL CASUALTY	)	
COMPANY,	)	
	)	
Defendants/Appellees	)	

**For the Appellant:**

Hardee, Martin & Jaynes, P.A.  
Michael A. Jaynes  
D. Tyler Kelly  
P.O. Box 98  
Jackson, TN 38302

**For the Appellee:**

Waldrop and Hall, P.A.  
106 South Liberty Street  
P.O. Box 726  
Jackson, TN 38301

**MEMORANDUM OPINION**

**Members of Panel:**

Justice Janice Holder  
Senior Judge John K. Byers  
Judge Robert L. Childers

AFFIRMED

BYERS, Senior Judge

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law.

The plaintiff contends that he got a piece of metal in his eye on Friday, August 25, 1995 at approximately 11:00 P.M., while working for the defendant, and that he has suffered a compensable injury to his eye.

The trial court found the plaintiff had failed to prove the injury was work related.

We affirm the judgment of the trial court.

The plaintiff testified a piece of metal got in his eye while he was working. He testified he received the injury at 11:00 P.M., and he searched for his supervisor to report the injury but was unable to find him. He testified he left work as a result of the pain.

The plaintiff testified he drove from work to a friend's house and took Tylenol for the pain. The friend did not testify in the case. The plaintiff's time card showed he had checked out at 8:50 P.M. He claimed he was present at work after 8:50 P.M., but he had no explanation for why his card did not show he had checked back into work.

The significant medical evidence in this case was given by Dr. James A. Price, an ophthalmologist. Dr. Price saw the plaintiff on August 29, 1995 and found him to have a pseudomonas corneal ulcer -- the pseudomonas being the bacteria which causes the damage. When asked if a piece of metal that had gotten into the eye would have caused the ulcer, Dr. Price was of the opinion that this would be consistent with the condition he found. The plaintiff had not told Dr. Price he had gotten a piece of metal in his eye. Dr. Price testified the plaintiff had lost 90 percent of the vision in his left eye.

The trial judge dismissed the case because he found "the plaintiff had failed to carry his burden of proof of causation." From a reading of the record it seems clear the trial judge found the plaintiff failed to show he sustained an injury by accident as he alleged, because he did not credit the plaintiff's testimony.

We reach this conclusion because the plaintiff testified he got a piece of metal in his eye at work. Dr. Price testified if a piece of metal got into the plaintiff's eye it could be a cause of the injury. If the plaintiff were believed, then he should have recovered. Indeed, the trial judge found that if the plaintiff were entitled to recover he would find he had suffered a 90 percent loss of his left eye.

The record shows the trial judge did not credit the plaintiff's testimony. The judge saw the witness testify and there are inconsistencies in his testimony. The credibility of witnesses lies solely within the province of the trial judge. The finding of credibility is binding upon us. *Jackson v. Bohan*, 861 S.W.2d 241 (Tenn. App. 1993); *State ex rel. Balsinger v. Town of Madisonville*, 435 S.W.2d 803 (Tenn. 1968).

We find the trial judge properly ruled in this matter and we affirm the judgment.

---

John K. Byers, Senior Judge

CONCUR:

---

Janice Holder, Justice

---

Robert L. Childers, Judge

IN THE SUPREME COURT OF TENNESSEE

AT JACKSON

BRANDON BRANTLEY,	)	HENDERSON CHANCERY
	)	NO. 10385
Plaintiff/Appellant,	)	
	)	Hon. Joe C. Morris,
vs.	)	Chancellor
	)	
PERSONNEL PLACEMENTS and,	)	NO. 02S01-9703-CH-00013
LUMBERMENS MUTUAL CASUALTY	)	
COMPANY,	)	
	)	
Defendant/Appellees.	)	AFFIRMED.

<p><b>FILED</b></p> <p><b>March 25, 1998</b></p> <p><b>Cecil Crowson, Jr.</b> Appellate Court Clerk</p>
---

JUDGMENT ORDER

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.

Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs will be paid by Appellant, and Surety, for which execution may issue if necessary.

IT IS SO ORDERED this 25th day of March, 1998.

PER CURIAM

(Holder, J., not participating)

