

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-464

APRIL TERM, 2004

	} APPEALED FROM:
	}
Henry E. Bennett	} Addison Superior Court
	}
v.	} DOCKET NO. 10-1-03 Ancv
Triad Temporary Services	} Trial Judge: Helen Toor
	}
	}

In the above-entitled cause, the Clerk will enter:

Claimant Henry E. Bennett appeals pro se from the trial court= s order granting summary judgment for defendant Triad Temporary Services in this workers= compensation case. We affirm.

Claimant was employed by Triad as a temporary worker. In December 1999, he injured his ankle while working for Edlund Company in the course of his employment with Triad. Triad= s insurance company paid claimant Temporary Total Disability benefits and medical benefits until he reached his medical end result. No permanency benefits were paid as both claimant= s treating doctor and Triad= s doctor concluded that claimant had no permanent impairment.

Claimant alleged numerous medical problems resulting from the incident in which he injured his ankle, as well as injuries arising from an alleged assault on the job, and from an independent medical evaluation by Triad= s doctor. After a hearing, the Commissioner of the Department of Labor and Industry denied claimant= s request for permanent total disability payments, as well as his claim for transportation costs, medical benefits and damages for loss of sleep, damages for loss of his vocal ability, and attorney= s fees. The Commissioner found that claimant had suffered a work-related ankle injury, specifically, a sprained ankle. The Commissioner rejected claimant= s uncorroborated allegation that he had been hit in the back of the neck with a board while employed by Triad, as well as his assertion that he had suffered a groin pull as a result of an independent medical examination. The Commissioner found that there was no medical evidence that credibly connected any of claimant= s A escalating, migrating, and exaggerated@ pain complaints to his ankle injury, nor was there any credible evidence that claimant= s numerous alleged medical problems were caused by work-related injuries. The Commissioner thus concluded that the credible evidence demonstrated that claimant reached medical end result for his work related injury in January 2000 with no resultant permanency. All of the other complaints alleged by claimant, the Commissioner explained, were in medical areas where expert evidence was essential, and despite the voluminous material provided by claimant, he had not proved with requisite credible medical evidence that he suffered extensive injuries from his work-related incident or, if he did, that such injuries caused his actual and perceived problems.

Claimant appealed the Commissioner= s decision to the superior court, and the Commissioner certified questions for the court= s consideration. Triad filed a motion for summary judgment, which the court granted after concluding that claimant had provided no understandable evidence to counter the factual allegations provided by Triad in its motion for summary judgment. The court explained that in response to Triad= s motion, claimant had filed voluminous loose papers without any meaningful explanations of their relevance, a A statement of disputed facts@ that contained no

evidentiary support or citations, an unintelligible list of exhibits, and a A memorandum@ stating that A I Henry Bennet hereby dispute everything the defendant says is true.@ The court recognized that pro se parties are accorded some leeway in their pleadings, but found that in this case that it was impossible to understand or analyze claimant= s claims. Thus, because claimant bore the burden on proof, and he had offered no admissible expert medical testimony to support his claim, the court concluded that claimant was not entitled to benefits. The court therefore granted summary judgment for Triad, and answered all of the certified questions in the negative. Claimant filed a motion for reconsideration, which the court denied, and this appeal followed.

Our standard of review is familiar:

When reviewing a motion for summary judgment, we apply the same standard as the trial court: summary judgment is appropriate when the record clearly indicates there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. In determining whether a genuine issue of material fact exists, we regard as true all allegations of the nonmoving party supported by admissible evidence, and we give the nonmoving party the benefit of all reasonable doubts and inferences.

Lane v. Town of Grafton, 166 Vt. 148, 150 (1997) (internal citations omitted); see also V.R.C.P. 56(c)(3).

It is difficult to discern claimant= s arguments on appeal. He appears to argue that the facts show that he is entitled to permanent disability payments, as well as other damages, due to his allegedly work-related injuries. He asserts that expert medical testimony was unnecessary as his medical records and his ongoing need for medical treatment establish that his injuries are work-related. We find these arguments without merit.

Plaintiff bore the burden of showing a causal connection between his injuries and his employment so as to establish his entitlement to benefits under the Workers= Compensation Act. Egbert v. The Book Press, 144 Vt. 367, 369 (1984). A When the facts to be proved are such that any layman of average intelligence would know from his own knowledge and experience that the accident was the cause of the injury, no expert testimony is needed to establish the causal connection; however, where the causal connection is obscure, expert testimony is required.@ Id. Claimant failed to meet his burden of proof here. First, claimant did not specifically dispute any of the facts that Triad provided in support of its motion for summary judgment. Moreover, he failed to establish through expert medical testimony that his alleged medical problems resulted from a work-related injury and that they had caused him permanent and total disability. Given the tenuous link between the myriad problems alleged by plaintiff and his workplace ankle injury, expert medical testimony was required. See id. We therefore conclude that summary judgment was appropriately granted for Triad.

Affirmed.

BY THE COURT:

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

Paul L. Reiber, Associate Justice