

WORKERS' COMPENSATION SHOP TALK

QUESTION: Does the doctrine of res judicata apply to decisions to allow or deny a claim made by the Ohio Bureau of Worker's Compensation?

The term res judicata is a Latin term meaning “a matter [already] judged.” According to the Merriam-Webster dictionary, it means “a matter finally decided on its merits by a court having competent jurisdiction and not subject to litigation again between the same parties.” It is well-established that the doctrine of res judicata applies in workers' compensation cases, most notably to decisions of trial courts and the Industrial Commission of Ohio. However, the Ohio Court of Appeals, Tenth Appellate District, was recently presented with a case involving a claimant who, after an initial denial by the Administrator for the Bureau of Workers' Compensation (“BWC”), simply filed a second claim, and whether that initial denial should have been barred by res judicata.

Hayton v. Reliable Staffing Resources, 2018-Ohio-4985, involved a claimant who was injured in 2014. The claimant filed a worker's compensation claim alleging that he was injured on October 9, 2014, but the BWC denied the claim. In May, 2015, the claimant renewed his attempt to receive workers' compensation benefits by filing a new claim. The employer objected, arguing that the original order had decided the matter, and the second claim was barred by res judicata. The matter proceeded to a series of hearings before the Industrial Commission of Ohio, which determined that the claimant should receive benefits. The employer appealed the matter to the common pleas court pursuant to RC 4123.512, and filed a motion for summary judgment with the trial court again arguing that the claim should be denied based upon res judicata. The trial court agreed and granted summary judgment, prompting an appeal by the claimant as of right to the Tenth District Court of Appeals.

The Tenth District reversed, finding that *Greene v. Conrad*, 10th Dist.No. 96APE12-1780 (Aug. 21, 1997) controlled, that decisions of the BWC are administrative in nature, and that they are not subject to res judicata analysis. On appeal, the employer argued that *Greene* was distinguishable from this case, not the least of which is that the claimant failed to exhaust administrative remedies. The Court stated that this would be a valid argument in a mandamus action, but this matter involved a direct appeal. The Court also noted that in *Greene*, the claimant also did not pursue an administrative appeal, but instead merely filed a new claim, this time accompanied by sufficient medical evidence. The Court also rejected any significance in the fact that Hayton had filed 2 different claims with different dates of injury, noting that “the finding by the BWC was ministerial as to either date.” No court had ruled that Hayton could not participate, nor did the Industrial Commission consider the first claim. The Tenth District reversed summary judgment and remanded the case back to the trial court.

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Hayton also contains a concurrence from one member of the panel who discussed in great detail the original Greene case and its findings. It also encapsulates the findings of the Court in that case: that a denial by the BWC of an application for benefits does not bar a successive claim based on the same injury, where the BWC's administrative determination of the first application cannot be fairly construed as a substantive adjudication of the claim.

If you would like to submit a question to Shop Talk, or would like to discuss this or any other workers' compensation issues, please feel free to contact me.

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