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NO. COA00-324

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NORTH CAROLINA COURT OF APPEALS

IN THE OFFICE OF
CLERK COURT OF APPEALS
OF NORTH CAROLINA

Filed: 17 October 2000

WILLIE HUNT,
Employee,
Plaintiff,

v.

N.C. Industrial Commission
I.C. No. 717878

MEGA FORCE STAFFING SERVICES,
Employer,

and

KEY BENEFIT SERVICES, INC.,
Carrier,
Defendants.

Appeal by defendants from opinion and award entered 17 November 1999 by the North Carolina Industrial Commission. Heard in the Court of Appeals 2 October 2000.

Beaver, Holt, Richardson, Sternlicht, Burge & Glazier, P.A., by Mark A. Sternlicht, for plaintiff-appellee.

Orbock Bowden Ruark & Dillard, P.C., by Barbara E. Ruark, for defendant-appellants.

SMITH, Judge.

Plaintiff Willie Hunt instituted this action to recover benefits under the Workers' Compensation Act (Act) for injuries suffered while working in a temporary capacity for U.S. Cold Storage. In 1997, defendant-employer Mega Force Staffing Services, a temporary service agency, assigned plaintiff to work as a dock worker for U.S. Cold Storage. On 14 May 1997, plaintiff fractured his pelvis while operating a forklift at U.S. Cold Storage. Plaintiff sought treatment at Duke Medical Center for his injury.

Thereafter, plaintiff filed a workers' compensation claim. Defendants denied the claim on the ground that plaintiff's injury was not the result of a work-related accident because plaintiff violated the direct orders of the supervisor in operating the forklift. A deputy commissioner of the North Carolina Industrial Commission conducted a hearing concerning plaintiff's claim and concluded that plaintiff was entitled to an award under the Act. The Full Commission made detailed findings and conclusions and affirmed the deputy commissioner's opinion and award. Defendants appeal.

This Court is limited to two questions when reviewing an opinion and award from the Commission: (1) whether there is any competent evidence in the record to support the Commission's findings of fact and (2) whether those findings of fact support the Commission's conclusions of law. *See Lowe v. BE&K Construction Co.*, 121 N.C. App. 570, 468 S.E.2d 396 (1996). Therefore, if there is competent evidence to support the findings, those findings are conclusive on appeal even though there is evidence to support contrary findings. *See Hedrick v. PPG Industries*, 126 N.C. App. 354, 484 S.E.2d 853 (1997). Furthermore, it is well established that the Act "'should be liberally construed to the end that the benefits thereof should not be denied upon technical, narrow, and strict interpretation.'" *Hall v. Chevrolet Co.*, 263 N.C. 569, 576, 139 S.E.2d 857, 862 (1965) (citations omitted). Defendants challenge the Commission's findings and conclusions that

plaintiff's injury arose out of and in the course of his employment.

For an injury to be compensable, it must be the result of an accident arising out of and in the course and scope of plaintiff's employment. *See* N.C. Gen. Stat. § 97-2(6) (1999). For an injury to "arise out of the employment," there must exist "'some causal connection between the injury and the employment.'" *See Hoyle v. Isenhour Brick and Tile Co.*, 306 N.C. 248, 252, 293 S.E.2d 196, 198 (1982) (citation omitted). Thus, the employment must be a contributing cause or bear a reasonable relationship to the employee's injuries. *See Roberts v. Burlington Industries*, 321 N.C. 350, 364 S.E.2d 417 (1988). An injury is "in the course of employment" when it occurs "'under circumstances in which the employee is engaged in an activity which he is authorized to undertake and which is calculated to further, directly or indirectly, the employer's business.'" *Shaw v. Smith & Jennings, Inc.*, 130 N.C. App. 442, 446, 503 S.E.2d 113, 116 (1998) (quoting *Powers v. Lady's Funeral Home*, 306 N.C. 728, 730, 295 S.E.2d 473, 475 (1982) (citations omitted)). The injury is compensable if "'it is fairly traceable to the employment' or 'any reasonable relationship to the employment exists.'" *Id.* at 445, 503 S.E.2d at 116 (citation omitted).

The Commission found as fact in pertinent part:

> 4. On 14 May 1997, plaintiff used a forklift to relocate spreaders from where he had washed them to a place where they could drain. Additionally, plaintiff needed to get into the washroom to clean it and the spreaders were partially blocking the

> entrance. Plaintiff had moved the spreaders approximately twenty-five feet and deposited the spreaders when plaintiff hit the wall while backing up. As a result of the forklift hitting the wall, plaintiff sustained serious injuries when he was pinned between the wall and the forklift.
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> 7. Regardless of the fact that defendant-employer had told plaintiff he should not use the forklift, at the time of the accident plaintiff was performing a task for the benefit of U.S. Cold Storage and therefore his employer. This task was also in furtherance of his employer's business. Plaintiff could not finish the required duty of cleaning the washroom with the spreaders in the way.

Plaintiff testified at the hearing that his job at U.S. Cold Storage included stamping "export" on the frozen foods, stacking the food on a spreader, putting a spreader between them, cleaning up, wrapping the food, and "wash[ing] spreaders when they asked me." Plaintiff testified that before the accident, he "had just finished washing [the spreaders]." Christopher Fields, a full-time warehouse worker for U.S. Cold Storage, testified that after spreaders are washed, they have to be moved out of the washroom to be drained and to make room for another pallet and that if the spreaders are not moved, plaintiff could not continue his job.

Plaintiff also testified that the washed spreaders and the forklift were blocking the washroom door. Plaintiff testified that he had a license to operate a forklift and that he drove the forklift into the washroom, got the spreaders, and moved them. Although plaintiff testified that he planned to go home after he moved the spreaders and parked the forklift, plaintiff added, "I

had to go in [the washroom] and clean up, cut off the lights. . . . [T]he washroom had to be cleaned up before I leave [sic] everyday."

By moving the spreaders away from the washroom door, plaintiff was furthering his employer's business. These facts indicate that plaintiff acted to benefit his employer and that his injury occurred as a direct result of his employment.

Contrary to defendants' assertion, the case of *Teague v. Atlantic Co.*, 213 N.C. 546, 196 S.E. 875 (1938), is not controlling here. In *Teague*, an employee died while attempting to ride a conveyor belt. The purpose of the belt was to convey empty crates from the basement of the employer's plant to the first floor. The Supreme Court held that the deceased exceeded the scope of his employment, rendering his death non-compensable. While *Teague* dealt with a situation where a thrill-seeking employee took action that bore no resemblance to accomplishing his job, plaintiff here acted solely to accomplish his job. Plaintiff rode on the forklift to move the spreaders from the washroom door. While this action may have been outside the "narrow confines of his job description" as a dock worker, plaintiff's actions were reasonably related to the accomplishment of the task for which he was hired. *See Hoyle*, 306 N.C. at 259, 293 S.E.2d at 202-03. This evidence supports the Commission's findings and conclusions that plaintiff's injury arose out of and in the course of his employment.

Affirmed.

Judges LEWIS and MARTIN concur.

Report per Rule 30(e).