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ILLINOIS. BULLETIN
NUMBER ONE, JULY 1,
1913, TO JULY 1, 1915**

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VARIOUS

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INDUSTRIAL BOARD OF ILLINOIS

Headquarters: City Hall Square Building, Chicago, Illinois

BULLETIN NUMBER ONE

THIS ISSUE OF THE BULLETIN IS DEVOTED EXCLUSIVELY TO OPINIONS IN CASES ARISING UNDER THE WORKMEN'S COMPENSATION ACT, DECIDED BY THE INDUSTRIAL BOARD OF ILLINOIS, FROM THE DATE OF ITS ORGANIZATION, JULY 1, 1913, TO JULY 1, 1915



MEMBERS OF BOARD

J. B. VAUGHAN, Chairman
PETER J. ANGSTEN
ROBERT EADIE
W. V. CONLEY, Secretary

PREFACE

Section 20 of the Workmen's Compensation Act provides that the Industrial Board of the State of Illinois "may prepare and issue such special bulletins and reports from time to time as in the opinion of the board, seems advisable."

The following is the first regular bulletin issued from the department since its organization. The effort and time required to prepare and install plans to put in force a law of such far reaching effect as the workmen's compensation act, prevented the getting out of a bulletin at an earlier date. Unfortunately, the earlier legislation of this State on compensation was, in a sense, an experiment, and the appropriations for the purpose so meager, that it was impossible to do more than initiate the reform. This can be understood from the fact that a greater number of industrial accidents occur in Illinois than in any other state in the Union, with the exception of New York.

An adjustment between employers and employees of all industrial accidents in a State of well nigh five million people, in a way to properly safeguard the rights and interests of employers and employees, necessarily required a formal system of keeping of records and books, a general supervision over the reporting of accidents and an exercising of authority and supervision over accident insurance, and the establishment of a regular system of arbitration, before a final disposition of all questions arising under the act, reached the board. Whatever irregularities there are in the following opinions, come in a great measure from the work required to perfect the organization, and the desire of parties interested and the department to dispose of the matters as provided in the act, in a "summary way."

That we may be in error in principle and in applying the law in many cases, goes without saying. With the means and time we had, we made the best efforts possible to construe, apply and administer the law in the light of such information and advice as could be had from the limited holdings of the courts on the subject. Although we may be wrong in our conclusions in many of these opinions, we believe that the publication of the same will materially assist in the reduction of compensation litigation before the department, a result much to be desired. Notwithstanding the fact that the purpose of the law is to provide a speedy remedy for injuries growing out of industrial accidents, and that no formal procedure is required, no reference to the laws of evidence, and no inherent powers given to the board concerning hearings, we have had no difficulty concerning parties conforming to the rules and regulations. Interested parties and attorneys have generally conformed to all department regulations, and we are pleased to acknowledge our indebtedness for the same. Had it not been for this, but little progress would have been made and many cases would have gone without consideration.

For many years there has been a growing demand in the states for a change in all laws affecting the regulation of employment and the adjustment of industrial accidents. Notwithstanding this, the old doctrine of tort was so firmly fixed in the minds of the people as to make it well nigh impossible to draft laws that would obviate the objection to the same. The most experienced legislators, many of whom recognize the evils that come from the "law court idea" of enforcing rights, were not able to devise or formulate corrective legislation on the subject. Many opposed any move made to correct the evils of the old doctrine. Lawyer and business man earnestly and honestly believed he was responsible only for his own wrongful acts; but great innovations in industrial activities and a constant increase in the number of injuries to workmen, have required better protection in working conditions, and more ample provision for injured workmen and their dependents. In the earlier history of industrial enterprises, most workmen did their work under the immediate direction of the employer. Little, if any, machinery was required to produce any of the articles which were the special subject of commerce or exchange. Few, if any, injuries occurred that were not chargeable directly to the employer; but, by virtue of the great increase in the population of the world, and the installment of machinery in the production of almost every product manufactured, injuries to employees have greatly increased. The fact that more than twenty-three states have adopted compensation laws fixing the burden upon consumption for industrial accidents argues strongly that this is the best remedy for the evils of the old system. Industry now bears the burdens of wornout industrial machinery, and society now demands that industry also bear the burden of destruction and inefficiency in human machinery, without which there can be no stable social and industrial conditions. When a man loses his life or is injured in his employment, every rule of humanity requires that those depending upon him in the event of his death, and he himself in the case of injury, should be properly provided for. Hence, the enactment of laws requiring payment of compensation and making the same a direct burden upon consumption.

Those of us whose education is of the old school and who are fixed in our opinions, must get our eyes opened, get in line with the spirit of progress, remove the cobwebs from the shelf, buckle on our armor and begin the fight again. Every man's right to live and enjoy the blessings and comforts of life, no longer is a mere legal fiction, but a well grounded, formal and established right. Equal opportunity before the law really means something today. The day of high sounding phrases and glittering generalities in legalism and legislation, is gone forever. Legal sophisms have given place to plain and comprehensive reasoning.

In compliance with the law, and for the purposes above set forth, this bulletin is published and ordered to be distributed.

OPINIONS IN CASES.

DECISION ON PETITION FOR REVIEW.

No. 21—Mrs. Amanda E. Courter, Guardian of James Randall Courter, a minor, Applicant; v. Simpson Construction Company, Respondent.

This matter coming on to be heard before the Industrial Board of the State of Illinois, upon petition of respondent for review of the decision of the committee of arbitration filed herein on the 17th day of November, said board having considered petition, and being fully advised in the premises, finds:

That George B. Courter was a resident of the city of Chicago, county of Cook and State of Illinois;

That on and prior to about the 23d day of July, 1913, he was in the employ of the Simpson Construction Company, a corporation, in Chicago, Illinois;

That on the 23d day of July, 1913, said George B. Courter came to his death as a result of accidental injuries received by him while in the employ of the said Simpson Construction Company, respondent;

That said accidental injuries sustained by said George B. Courter and resulting as aforesaid in his death arose out of and in the course of his employment;

That eight and 41/100 dollars (\$8.41) is one-half ($\frac{1}{2}$) of the amount received by him as weekly wages while in the employ of said Simpson Construction Company;

That said George B. Courter left him surviving a son, James Randall Courter, a minor, of whose person Amanda E. Courter, his mother, the divorced wife of George B. Courter, is guardian.

IT IS THEREFORE ORDERED, DETERMINED AND ADJUDGED, that the said Amanda E. Courter guardian of said James Randall Courter, a minor, is entitled to recover from the said Simpson Construction Company the sum of eight and 41/100 dollars (\$8.41), per week for a period of four hundred sixteen (416) weeks, from July 23, 1913, and that said Amanda E. Courter is now entitled to the sum of one hundred eighty-five and 2/100 dollars (\$185.02), being the amount of such compensation that has already become due under the provisions of the law: The remainder of said award to be paid to said Amanda E. Courter by said respondent, Simpson Construction Company, in weekly payments beginning one week from date hereof and continuing until said James Randall Courter, a minor, attains the age of twenty-one (21) years, from which time forward and during the remaining weeks of said four hundred sixteen (416) said sum of eight and 41/100 dollars (\$8.41) per week is to be paid to said James Randall Courter.

Dated at Chicago, Illinois, this 26th day of December, 1913.

H. S. TANNER.

PETER J. ANGSTEN.

Industrial Board of Illinois.

DECISION ON REVIEW.

No. 509—Charles Steel, Applicant; v. Shelbyville Handle & Milling Company, Respondent.

This matter coming on to be heard before the Industrial Board of the State of Illinois upon the petition for review of the decision of the committee of arbitration, filed herein on the 30th day of December, 1913, and said board having considered said petition and being duly advised in the premises:

IT IS THEREFORE ORDERED AND DETERMINED by said board as follows:

That the findings of and compensation fixed by the committee of arbitration be and the same are approved and confirmed.

Dated at Chicago, Illinois, this 18th day of March, A. D. 1914.

J. B. VAUGHN, *Chairman.*

PETER J. ANGSTEN.

ROBERT EADIE.

Industrial Board of Illinois.

DECISION ON REVIEW.

No. 655—Fred Schaeffer, Sr., Administrator of the Estate of Fred Schaeffer, Jr., deceased, Applicant; v. Chicago Rawhide Manufacturing Company, Respondent.

March 31, A. D. 1914.

This cause for hearing and submitted to the Industrial Board for review upon the arguments of counsel and a stenographic report of the proceedings before the committee of arbitration.

It is the contention of the respondent here that the facts as contained in the stenographic report filed herein show the petitioner, deceased, had so acted that he had temporarily suspended relations of master and servant, and that he therefore was not acting in the course of his employment.

It is contended, in answer to this, by petitioner, that the facts contained in the stenographic report do not justify this conclusion as a matter of law.

Upon consideration thereof, it is the judgment of the Industrial Board, that the position of the respondent is not well taken.

IT IS THEREFORE ORDERED AND DECREED, that the finding of the board of arbitration herein be and is accordingly confirmed and approved.

J. B. VAUGHN.

ROBERT EADIE.

PETER J. ANGSTEN.

Industrial Board of Illinois.

DECISION ON PETITION FOR REVIEW.

No. 511—Losco Lovelle Lee, Applicant; v. A. R. Rounds, Respondent.

April 2, 1914.

Cause called for hearing and submitted to the Industrial Board of Illinois for review upon stenographic report filed and argument of counsel for petitioner.

The board upon consideration of the evidence introduced before the committee of arbitration composed of Dr. H. H. Paulsen, representing said applicant, B. F. Schriver, representing said respondent, and Joseph J. Healy, as agent of the Industrial Board, finds that the evidence heard before the committee of arbitration sustains the finding of said committee.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the board, that the findings, allowances, and orders, made in the said award of the committee of arbitration be, and the same is, accordingly confirmed.

Dated at Chicago, this 9th day of April, 1914.

J. B. VAUGHN.

PETER J. ANGSTEN.

ROBERT EADIE.

Industrial Board of Illinois.

DECISION ON PETITION FOR REVIEW.

No. 587—Roy L. Quale, Applicant; v. John Hamilton, Respondent.

April 2, 1914.

Petition for review of decision of committee of arbitration consisting of John R. McCabe, representing said applicant, John McInness, representing said respondent, and James E. Tanner, agent of the Industrial Board, was heard upon the stenographic record of the evidence taken before the committee of arbitration, certain additional testimony introduced before the board by applicant R. L. Quale, and argument of counsel.

There are three questions raised upon this record:

1. It is contended by the respondent that the record does not sufficiently show that applicant was in the employ of the respondent to make a *prima facie* case.

2. That the award fixing the percentage of total incapacity at fifty per cent is not justified by the evidence.

3. That the provisions of the workmen's compensation act authorize and empower the Industrial Board to make an order requiring the said applicant to undergo an operation such as is shown by the evidence should be made.

All three of the contentions are denied by the applicant.

This cause coming on to be heard upon the arguments of counsel, and the board being fully advised in the premises, and having considered the testimony and report, herein filed, finds:

(1). Applicant was in the employ of the respondent.

(2). The evidence does not justify the board in entering an order requiring the petitioner to submit to a surgical operation.

(3). The weight of the testimony in the record submitted justifies the contention of the applicant that his earning capacity by reason of such injury has been reduced fifty per cent.

(4). That the findings of the committee of arbitration in this cause are justified in whole and the same are confirmed and approved, except as follows:

There should be added to the time for which the applicant is entitled to compensation six and five-sevenths (6 5/7) weeks at the same compensation as is therein fixed.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED by this board that the award and findings of the committee of arbitration herein be, and the same is accordingly approved and confined with the additional compensation therein fixed for an additional period of six and five-sevenths (6 5/7) weeks.

Dated at Chicago, this 9th day of April, 1914.

J. B. VAUGHN.
PETER J. ANGSTEN.
ROBERT EADIE.

Industrial Board of Illinois.

DECISION ON REVIEW.

No. 664—Walter Robinson, Applicant; v. Kahl Construction Company, Respondent.

Cause heard upon petition for review of decision of committee of arbitration consisting of James Colman, representing said applicant; C. S. Miller, representing said respondent, and James E. Tanner, agent of the Industrial Board, and stenographic report of testimony taken, and arguments of counsel.

The evidence contained in the stenographic report discloses the fact that applicant at the time when the work he was engaged in had been temporarily suspended at the direction of the employer stepped from the car on which he was working to one of the tracks of the Illinois Central Railroad Company. On this track of the Illinois Central Railroad, switch engines and cars were passing backward and forwards. The applicant with several other employees of the respondent sat down on the said track of the Illinois Central Railroad Company just in front of some cars that were then standing on the track.

While sitting there the train of cars began to move and applicant received his injury attempting to get up and off this track.

The only question involved in this case is: Did the injury sustained "arise out of and in the course of the employment?"

It is the judgment of the board that during the time the work was suspended the applicant was in the employ of the respondent, and that the mere fact that he stepped from his place of employment on the car on which he was working to the Illinois Central Railroad Company's track, accompanied by other employees, and sat down there did not suspend the relation of master and servant.

Therefore, the injuries sustained by the applicant grew out of and in the course of his employment.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the board that the findings of the said committee of arbitration be, and the same is accordingly confirmed and approved.

Dated at Chicago, Illinois, this 9th day of April, 1914.

J. B. VAUGHN.

ROBERT EADIE.

PETER J. ANGSTEN.

Industrial Board of Illinois.

DECISION ON REVIEW.

No. 69—Leo T. Beauregard, Applicant; v. E. N. Tichener & Company, Respondent.

Cause heard upon petition for review by respondent of the award of the committee of arbitration consisting of S. P. Douthart, representing said applicant, E. A. Zimmerman, representing said respondent, and James E. Tanner, agent of the Industrial Board, and stenographic report of the proceedings, and arguments of counsel.

There is but one question presented upon this record for decision. The evidence discloses that the applicant was injured in one of his eyes and that as a result of such injury the permanent effect thereof is to leave him so he is able to only distinguish light, and objects moving before the eye.

It is contended by the respondent that this amounts under the evidence to no more than the loss of eighty per cent of the sight, while claimant insists that the permanent condition of his sight in the injured eye deprives him of the use of such eye for all useful and practical purposes.

It is the judgment of the board, that the contention of the applicant is correct, and that such injured eye is permanently impaired in its use for all practical purposes, and is under the provisions of the workmen's compensation act a total loss of such eye.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the board, that the finding and award fixed by the committee of arbitration herein be, and the same are hereby accordingly approved and confirmed.

Dated at Chicago, this 9th day of April, 1914.

J. B. VAUGHN.

PETER J. ANGSTEN.

ROBERT EADIE.

Industrial Board of Illinois.

DECISION UPON PETITION FOR REVIEW.

No. 508—Issah Evans, Petitioner; v. American Steel Foundries, Respondent.

This matter coming on to be heard before the Industrial Board of the State of Illinois upon the petition for review of the decision of the committee of arbitration, filed herein on the 10th day of February, 1914, and said board having considered said petition and being fully advised in the premises:

IT IS THEREFORE ORDERED AND DETERMINED by said board as follows:

That the decision and award of the committee of arbitration be and the same is hereby reversed, and it is ordered and determined that no compensation is to be paid.

Dated at Chicago, Illinois, this 10th day of April, A. D. 1914.

ROBERT EADIE.

PETER J. ANGSTEN.

J. B. VAUGHN.

Industrial Board.

DECISION ON REVIEW.

No. 425—Estate of Oscar Hult, Deceased, Applicant; v. Commonwealth Edison Company, Respondent.

Petition for review of decision of the committee of arbitration, consisting of I. D. Berg, representing said applicant, and Joseph M. Griffen, representing said respondent, and James E. Tanner, Jr., as agent of the