


STATE OF LOUISIANA
COURT OF APPEAL
FIRST CIRCUIT

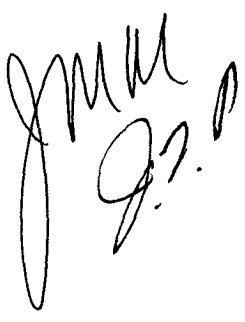
2008 CA 1944

WILLIAM TAYLOR
VERSUS

HANSON NORTH AMERICA



Judgment Rendered: MAY - 8 2009



ON APPEAL FROM THE OFFICE OF WORKERS' COMPENSATION,
DISTRICT 6,
IN AND FOR THE PARISH OF ST. TAMMANY
STATE OF LOUISIANA,
DOCKET NUMBER 07-07603

THE HONORABLE ROBERT W. VARNADO, JR., JUDGE

Thomas J. Hogan, Jr.
Hammond, Louisiana

Attorney for Plaintiff/
Appellant—William Taylor

Frank R. Whiteley
Metairie, Louisiana

Attorney for Defendant/
Appellee—Hanson North America

BEFORE: CARTER, PETTIGREW, McDONALD, JJ.

McDONALD, J.

In this workers' compensation case, Mr. William Taylor suffered a job-related injury on May 19, 1995, while employed by Crown Zellerbach. Hanson North America is the successor in interest to Crown Zellerbach. Hanson North America paid Mr. Taylor's weekly benefits and medical expenses for a number of years. Hanson North America routinely mailed a weekly benefit check to Mr. Taylor. However, in July and August 2007, three weekly benefit checks were returned for insufficient funds. Hanson North America continued to make weekly benefit payments afterward, but refused to honor the three returned checks.

On October 1, 2007, Mr. Taylor filed a disputed claim for compensation seeking payment of the three returned checks, bank processing fees, penalties, and attorney fees. Hanson North America filed an answer asserting that it had provided funds that brought Mr. Taylor up to date on his benefits.

Mr. Taylor filed a motion for summary judgment asserting that he was clearly due the amount of the returned checks, bank processing fees, penalties, interest, and attorney fees. Hanson North America filed a motion for summary judgment asserting that 520 weeks of indemnity benefits had been paid to Mr. Taylor, he was not permanently and totally disabled nor was he temporarily totally disabled, and thus the checks he received in July and August 2007 were compensation for benefits not owed to him. The workers' compensation judge granted summary judgment in favor of Hanson North America and against Mr. Taylor, finding that Mr. Taylor had received 520 weeks of indemnity benefits effective January 10, 2007, and further, that Mr. Taylor failed to meet his burden of proof by clear and convincing evidence that he was entitled to permanent and total disability benefits, supplemental earnings benefits, or temporary total disability benefits. Mr. Taylor is appealing that judgment.

After a review of the record, we find that there are genuine issues of material fact in this case that require a hearing. Thus, we reverse the summary judgment in favor of Hanson North America, and we remand the case for further proceedings. Costs are assessed against Hanson North America. This memorandum opinion is rendered in compliance with the Uniform Rules—Courts of Appeal, Rule 2-16.1.B.

REVERSED AND REMANDED.