

Your Employer Wants to Suspend Your Workers' Comp Benefits. Can They Do That?

Recently, an employer was reminded that it must follow proper procedure to suspend its former employee's workers compensation benefits. In the Commonwealth Court of Pennsylvania, a judge affirmed the Workers' Compensation Appeal Board's decision to deny an employer's request to suspend the worker's benefits.

The employee had been receiving benefits since 1989 when he injured his back on the job after being struck by a machine. In 2004, the employee was examined by the employer's doctor. The doctor stated that he believed that employee was still totally and permanently disabled, but that the disability was caused by non-work-related causes, namely, the employee's diabetes. The doctor believed that the employee's back injury caused by the work accident would have healed by that time, so that the employee's current back complaints must have been caused by neuropathy related to the employee's diabetes.

The employee also had non-work-related conditions related to his heart including atrial fibrillation, chronic obstructive pulmonary disease and high blood pressure. The doctor believed that the employee could not obtain "gainful employment" but, if employee's non-work-related conditions were excluded, the employee could be cleared for "sedentary work."

Based on the doctor's clearance, the employer's vocational worker began referring the employee to certain sedentary positions. The employee did not follow up on these referrals on the advice of his attorney and because he was hospitalized. The employer requested that the employee's workers' compensation benefits be suspended and a Workers' Compensation

Judge (WCJ) agreed with the employer.

On appeal, however, the Workers' Compensation Appeal Board reversed the WCJ's decision because the employer had failed to send a Notice of Ability to Return to Work to the employee. The employer appealed, but lost that appeal. This case serves as a lesson to employers on workers' compensation procedure. If you have been injured on the job or if your workers' comp benefits have been denied or suspended, contact an experienced workers' comp attorney at Martin Law.

Related Sources:

Struthers Wells v. Workers' Comp. Appeal Bd. (Skinner), 990 A.2d 176, 178 (Pa. Cmwlth. 2010)