

7-16-43
2 H. conference

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ROBERT A. DETWEILER

June 23, 1943

Dr. Robert H. Kehoe,
Kettering Laboratory,
College of Medicine,
University of Cincinnati,
Cincinnati, Ohio.

Dear Dr. Kehoe:-

I know that you are always interested in the results of cases in which you have testified.

Enclosed is copy of my brief used in the Court of Common Pleas of Schuylkill County, which please return to me after you have read it.

A copy of the opinion of the court, also deciding in our favor, is enclosed.

I also enclose a copy of the opinion of the Board, reversing the action of the referee and deciding in our favor. This I need returned to me for use in the case.

Senator Staudenmeier, for the plaintiff, tried to induce the court to send the record back to take the testimony of what we call in Pennsylvania an impartial expert. I answered that the defendant had combed the nation for the most experienced man in this work, and had brought that man across two states, to testify in the case, and that if the matter were sent back to find the most expert man living to give an opinion on the subject, that would be the man whose opinion would be sought.

With warm good wishes to you, I am,

Sincerely,

George H. Detweiler

File with the history of the case. Elye Complaint file

IN THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

[REDACTED]

: No. 65 May Term, 1943.

v.

: Appeal and Exceptions from the
action of the Workmen's
Compensation Board.

McLaren Auto Supply Store,
defendant, and BANKERS
INDEMNITY INSURANCE
COMPANY, insurance carrier

:
:
:

Before: Palmer, P. J. Curran, Paul and Dalton, JJ

OPINION OF THE COURT

Palmer, P. J.

The claimant was employed by McLaren Auto Supply Stores. His employment consisted in selling automobile accessories, and in dispensing gasoline. He applied for compensation under the Occupational Disease Compensation Act of 1939, averring in his petition that he suffered disability as a result of lead poisoning contracted while pursuing duties necessitating the dispensing of gasoline.

There was medical testimony offered by the claimant to support the averment in his petition, and there was medical evidence offered by the defendant in contradiction thereto.

The Workmen's Compensation Board came to the conclusion that the testimony of the claimant "does not warrant a finding that claimant's disability is the result of lead poisoning. On the contrary, we are of the opinion that claimant was not exposed to lead poisoning."

In *Plougher, Ap., v. American Viscose Corporation*, 147 Pa. Superior Ct. 372, the Court said on pages 380, 381:

"The Pennsylvania Occupational Disease Act of 1939, like its prototypes, the Workmen's Compensation Act and the Occupational Disease Compensation Act of 1937, makes the Workmen's Compensation Board the ultimate fact finding body (sections 418, 423 and 427), subject only to review by the courts as to whether its findings of fact are sustained by sufficient, competent evidence, and as to medical questions of fact, to the provision (sec. 423), that the Workmen's Compensation Board shall accept the findings of the medical board as conclusive upon it. Until there is a medical board functioning under the act, this proviso or exception is in abeyance and the Workmen's Compensation Board can proceed as if there were no such provision in the act, and make its findings of fact with the same force and effect as if the provision cited from section 423 did not exist. The general authority conferred by the act is not affected by the qualifying provision respecting a non-existent board."

Without reciting the testimony of the medical experts, we are of the opinion upon reading all the testimony, that there can be no question that the finding of the board is sustained by sufficient competent evidence.

Before: Palmer, P. J. Curran, Paul and Dalton, JJ

OPINION OF THE COURT

Palmer, P. J.

The claimant was employed by Molaren Auto Supply Stores. His employment consisted in selling automobile accessories, and in dispensing gasoline. He applied for compensation under the Occupational Disease Compensation Act of 1939, averring in his petition that he suffered disability as a result of lead poisoning contracted while pursuing duties necessitating the dispensing of gasoline.

There was medical testimony offered by the claimant to support the averment in his petition, and there was medical evidence offered by the defendant in contradiction thereto.

The Workmen's Compensation Board came to the conclusion that the testimony of the claimant "does not warrant a finding that claimant's disability is the result of lead poisoning. On the contrary, we are of the opinion that claimant was not exposed to lead poisoning."

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Without reciting the testimony of the medical experts, we are of the opinion upon reading all the testimony, that there can be no question that the finding of the board is sustained by sufficient competent evidence.

AND NOW, June 21, 1943, the action of the Workmen's Compensation Board is affirmed, and the exceptions of the claimant dismissed, and judgment is directed to be entered for the defendants.

BY THE COURT.

P.J.

AND NOW, June 21, 1943, upon motion of Charles W. Staudenmeier, Esq., attorney for claimant, an exception is allowed and bill sealed.

BY THE COURT

P.J.

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SYLVIA E. DETWEILER

ROBERT A. DETWEILER

March 4, 1943

Dr. Robert H. Kehoe,
Kettering Laboratory,
College of Medicine,
University of Cincinnati,
Cincinnati, Ohio.

Dear Dr. Kehoe:-

I feel that you will be very much pleased to know that the Workmen's Compensation Board of the Commonwealth of Pennsylvania has reversed the action of the referee. It has disallowed compensation in the Faber case, on which you came to Pennsylvania to testify for the defendant. You will be particularly interested in the fifth finding of fact made by the Board:

"FIFTH: That on September 9, 1940, claimant became totally disabled by reason of a disease of the spinal cord, which condition was neither the result of nor caused by reason of his being employed by the defendant herein; that the disability of the claimant is not the result of his being exposed to lead poisoning nor is it the result of the absorption of lead by the claimant while acting within the course of his employment with the defendant."

My compliments to you for your very wonderful elucidation of the question of lead poisoning from Ethyl.

After you examined my brother, you told me that he was a very sick man. Of course we knew that was so. He passed away in November last.

If you put out any future brochures on any subject, may I be on your mailing list? I like to do everything possible to keep abreast of the times on developments of the art and science of medicine and medical chemistry.

With very earnest good wishes to you, and with thanks to you for adding to my education on the question of lead poisoning, I am,

Sincerely,

George H. Detweiler

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