

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
WORKMEN'S COMPENSATION BOARD
HARRISBURG

Referee's Award or Disallowance of Compensation


18 Merrow Avenue, Bradford, Pa.
Claimant

:
Bureau File No. 8,085,959

vs.

KENDALL REFINING COMPANY
77 N. Kendall Avenue, Bradford, Pa.
Defendant

:
Claim Petition No. 77,391

PENNSYLVANIA MANUFACTURERS' ASSO-
CIATION CASUALTY INSURANCE COMPANY
Ridgway, Pennsylvania
Insurance Carrier for Defendant

BEFORE: E. H. Beshlin, Referee, District No. 10.

HEARING: Friday, December 16, 1938 at 10:45 A.M. at the
City Hall, Bradford, Pennsylvania.

A P P E A R A N C E S:

Henry A. Onofrio, Attorney, 3 Main Street, Bradford, Pa.,
Counsel for Claimant.

Francis M. Nash, Attorney, City Hall, Bradford, Pennsylvania
and C. E. Mader, Adjuster, Ridgway, Pennsylvania, representing Insurance
Carrier for Defendant.

CLAIMANT'S WITNESSES:

Milton E. Douthit, 18 Merrow Avenue, Bradford, Pennsylvania
Dr. Luke D. Garvin, Bradford, Pennsylvania
K. E. Dininny, no address given.
Dr. S. A. McCutcheon, Bradford, Pennsylvania
Dr. G. M. DeWoody, Bradford, Pennsylvania

DEFENDANT'S WITNESSES:

Jack W. Stewart, no address given.

FINDINGS OF FACT

From the testimony taken in the above case the following facts are found:

- First, The claimant, [REDACTED], on and prior to May 6, 1938 was employed by the defendant, Kendall Refining Company at its plant in Bradford, Pennsylvania, as a laborer.
- Second, Neither the claimant nor the defendant served notice upon the other rejecting the provisions of the Workmen's Compensation Act.
- Third, It is agreed that the average weekly wage of the claimant amounted to \$28.80.
- Fourth, The claimant on and prior to May 6, 1938 was engaged in loading gasoline and oil in tank cars, and filling the bulk plant, and generally handling gasoline as his regular duties. He worked approximately five hours a day on the bulk plant and the rest of the time on the cars and practically all his work was done outside in the open air. The claimant has been engaged in this sort of work since November, 1932. Beginning April of 1938, the claimant began to suffer from dizziness, headaches and vomiting, and persisted until he was finally compelled to cease work on May 6, 1938. On May 10, 1938, he was admitted to the Bradford Hospital where he remained until June 5, 1938, on which date he was admitted to the Warren State Hospital where he stayed until June 18, 1938. The claimant returned to work at the Kendall Refining Company on September 15, 1938 at the same wages as previously, but at a different kind of work. The claimant as far back as 1934 had had various physical ailments, for which he had been treated and examined from time to time. His attending physician was unable to state definitely the cause of his trouble of which he began to complain in April, 1938.
- Fifth, Notice of the alleged condition was given to the employer in June, 1938.
- Sixth, The claimant was totally disabled from May 6, 1938 to September 15, 1938.
- Seventh, The disability of the claimant was not the result of or aggravated by lead poisoning.
- Eighth, The cost of medical, surgical and hospital services during the first three months of disability are as follows:

Bradford Hospital, Bradford, Pennsylvania, of which	\$179.15
\$100.00 was paid by the Hospital Insurance Assoc.	
of the Kendall Refining Company	
Warren State Hospital, paid by the claimant,	11.00
Dr. F. W. Hayes, Bradford, Pennsylvania	16.00
Dr. S. A. McCutcheon, Bradford, Pennsylvania	94.00

THE FINDINGS OF FACT WERE DERIVED FROM:

- First, The undenied averments of the petition.
- Second, The agreements and stipulations of counsel.
- Third, The preponderance of the evidence presented at the hearing.

CONCLUSIONS OF LAW

- First, At the time of the accident both the claimant and the defendant were bound by the provisions of the Workmen's Compensation Act of 1915 and the Amendments thereto.
- Second, The disability of the claimant was not the result of coming in contact with lead poisoning as provided in the Occupational Disease Section of the Workmen's Compensation Act.
- Third, The claimant is not entitled to compensation.

D I S A L L O W A N C E

In accordance with the Findings of Fact and the Conclusions of Law, herein stated, compensation is disallowed the claimant, Milton E. Douthit.

Jesse G. Smith Referee
10th Compensation District

Dated: September 6, 1939

KE 0010963