

Withdraw From the Workforce - Impact of Social Security Disability on Workers' Compensation

On Jan. 13, 2012, the Commonwealth Court decided a significant case concerning the importance of Social Security disability benefits when considering whether or not a claimant has withdrawn from the workforce. The courts for several years have been developing a doctrine whereby an injured worker who withdraws from the workforce may be considered no longer entitled to receive ongoing workers' compensation disability benefits without requiring the employer to prove that suitable work is actually available to the worker.

In the case of Susan Burks v. WCAB (City of Pittsburgh), 36 A.3d 639 (Pa. Cmwlth. 2011), the workers' compensation judge had suspended the claimant's benefits because she had voluntarily removed herself from the workforce. The Workers' Compensation Appeal Board affirmed the decision. On appeal, the employer argued that a worker who has been receiving Social Security disability benefits and has, therefore, not been looking for any work over a period of years, has thereby withdrawn from the labor market and is not entitled to ongoing workers' compensation benefits. The Commonwealth Court, citing its prior opinion in Keene v. WCAB (Ogden Corporation), 21 A.3d 243 (Pa. Cmwlth 2011), wrote:

We agree with Employer that because Claimant sought a disability pension that was based on her inability to engage in substantial gainful employment and because Claimant's work injury did not prevent Claimant from engaging in substantial gainful activity, Claimant voluntarily withdrew from the workforce. In Keene, this Court noted that the receipt of Social Security Disability benefits could be evidence that the Claimant's work injury forced him or her out of the labor market. Indeed, if the WCJ finds that a Claimant suffers from a work injury and non-work-related medical conditions, then the receipt of Social Security Disability benefits can mean only that the Claimant's work injury has forced him or her out of the labor market. On the other hand, if the WCJ finds that the Claimant suffers from a work injury and non-work-related medical conditions and that the work injury does not prevent the Claimant from working, then the receipt of Social Security Disability benefits can mean only that the Claimant is unattached to the workforce for reasons unrelated to the work injury. Here, Claimant suffered from a work injury that limited Claimant to light-duty work, but she also suffered from non-work-related medical conditions that limited Claimant further. Because of the latter conditions, Claimant chose to apply for Social Security Disability benefits. To continue her receipt of those benefits, Claimant can work only through Social Security's "Ticket to Work" program, but there is no evidence in this case that Claimant participates in that program. Thus, Claimant's decision to receive Social Security Disability benefits shows that she has voluntarily withdrawn from the workforce for reasons unrelated to the work injury. Accordingly, we affirm.