

IN THE COURT OF APPEALS OF IOWA

FILED

MAY 23 1989

CLERK SUPREME COURT

DARRELL W. BAILEY AND)
KATHLEEN M. BAILEY,)

Plaintiffs-Appellants,)

vs.)

WILSON FOODS CORPORATION,)

Defendant-Appellee.)

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8-539
87-1390

Appeal from the Iowa District Court for Linn County
(LA10167), Larry J. Conmey, Judge.

Plaintiffs appeal a judgment on a jury verdict in their
favor in district court on their tort claims. **AFFIRMED.**

Hugh G. Albrecht, Cedar Rapids, for plaintiff-
appellants.

Richard A. Stefani, Cedar Rapids, for defendant-
appellee.

Considered by Oxberger, C.J., and Donielson and
Schlegel, JJ.

SCHLEGEL, J.

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Plaintiffs appeal a judgment on a jury verdict in their favor for \$1,606 in district court on their tort claims. They claim that the district court erred by: 1) ruling that the administrative decision of the Secretary of Labor precluded them from litigating in this civil tort case the nature and extent of the post January 5, 1982, injuries and damages; and 2) sustaining defendant's motion in limine barring plaintiffs from introducing evidence of post-January 5, 1982, injuries and damages.

Plaintiff Darrell W. Bailey was employed by the United States Department of Agriculture as a meat inspector. On February 26, 1981, he was asked to inspect hog carcasses for Wilson Foods Corporation in Cedar Rapids. While performing his inspection duties, Bailey fell off the steel bench provided for him by Wilson Foods and injured his back. Bailey immediately sought medical attention from his family physician. Bailey did not return to work the next day following the accident, a Friday, but did return the following Monday. He continued working until January 5, 1982, when he quit his job due to back problems. Bailey subsequently filed a claim with the United States Department of Labor for worker's compensation. The Department rejected the claim because Bailey had failed to show a causal relationship between his condition and his fall in 1981. Bailey sought reconsideration of the

decision which was denied after a hearing. Bailey did not appeal the decision any further.

On June 16, 1982, Bailey filed a petition in Iowa district court claiming Wilson Foods' negligence caused his injury. Bailey's wife, Kathleen M. Bailey, joined the petition alleging loss of consortium. The district court granted defendant's motion for partial summary judgment, and concluded that plaintiffs were precluded from relitigating the issue of whether Bailey's fall in 1981 caused him to be permanently disabled and to suffer damages beyond January 5, 1982, due to the Department of Labor's findings. Plaintiffs then sought an interlocutory appeal which was denied. The district court also granted defendant's motion in limine to prohibit any evidence of injury or damages past January 5, 1982.

The case was tried to a jury, which ultimately found Bailey was injured in the amount of \$8,032 and that Bailey was 80% at fault and Wilson Foods was 20% at fault. Plaintiffs now appeal the decision of the district court.

This appeal presents to the court the issue of whether a federal administrative ruling concerning the nature and extent of injuries sustained by a federal employee in the course of his employment as a federal meat inspector at a packing house should be given preclusive effect in a subsequent civil tort proceeding filed by the federal employee against the packing house.

Bailey claims that the trial court erred in granting defendant's motion for partial summary judgment based on the doctrine of issue preclusion. In reviewing the grant or denial of summary judgment motions, we view the underlying facts contained in the pleadings and the inferences to be drawn therefrom in the light most favorable to the party opposing the motion, and give such party the benefit of any doubt as to the propriety of granting summary judgment. Our task on appeal is to determine only whether a genuine issue of material fact exists and whether the law was correctly applied, and to reverse the grant of summary judgment if it appears from the record there is an unresolved issue of material fact. Frohwein v. Haesemeyer, 264 N.W.2d 792, 795-96 (Iowa 1978)

Generally, the doctrine of issue preclusion prevents parties to a prior action in which judgment has been entered from relitigating in a subsequent action issues raised and resolved in the previous action. Prerequisites for use of the offensive or defensive use of the doctrine are delineated in Hunter v. City of Des Moines, 300 N.W.2d 121, 123 (Iowa 1981). Before issue preclusion may be employed in any case, four prerequisites must be established: (1) the issue concluded must be identical; (2) the issue must have been raised and litigated in the prior action; (3) the issue must have been material and relevant to the disposition of the prior action; and

(4) the determination made of the issue in the prior action must have been necessary and essential to the resulting judgment. Id. The doctrine of issue preclusion serves to protect the finality of judgments. Smith v. Updegraff, 774 F.2d 1354 (8th Cir. 1984).

1. Bailey first contends that the doctrine of issue preclusion is inapplicable here because the Secretary of Labor's decision was not a final judgment. When Bailey filed his federal worker's compensation claim with the Department of Labor, he filed under 5 U.S.C.A. 1801, et seq., the Federal Employees Compensation Act. The policy behind FECA is to provide injured employees with more immediate and less expensive relief than a common law tort action. Avasti v. United States, 608 F.2d 1059, 1060 (5th Cir. 1979). From the statutory scheme, it is clear that Congress has determined that the Department of Labor has exclusive jurisdiction over work-related injuries suffered by federal employees, 5 U.S.C.A. § 8116(c), and that Congress intended the Department of Labor to act in an adjudicatory and judicial fashion, giving the Secretary of Labor the power to achieve the statutory goals under 5 U.S.C.A. § 1801, et seq.

Under 5 U.S.C.A. § 8124(a), the Secretary of Labor is required to make a finding of facts and to determine an award for or against payment of compensation after considering the employee's claim and completing such

investigation as she/he considers necessary. If the claimant or employee is not satisfied with the initial decision of the Secretary of Labor, she/he may request a hearing on his claim before a representative of the Secretary of Labor. 5 U.S.C.A. § 8124 (b)(1). At that hearing, the claimant is entitled to present evidence in further support of his claim. In conducting the hearing, the representative of the secretary, while not bound by common law or statutory rules of evidence, is to conduct the hearing "in such a manner as to best ascertain the rights of the employee. For this purpose, [the hearing officer] shall receive such relevant evidence as claimant adduces and such other evidence as he determines necessary or useful in evaluating the claim. 5 U.S.C.A. § 8124(b). The Secretary of Labor's decision is final and conclusive for all purposes with respect to all questions of law and fact and is not subject to judicial review. 5 U.S.C.A. § 8128(b).

In the case at bar, Bailey filed his claim for benefits with the Department of Labor on or about January 5, 1982, which was denied. On October 7, 1982, his claim was rejected, because the weight of the medical evidence failed to support a causal relationship between Bailey's present condition and factors of his federal employment. Bailey then filed an application for further review seeking modification of the decision. A hearing was conducted

before a hearing representative on February 7, 1983, at which time Bailey presented further medical evidence in support of his claim, as well as additional oral evidence. The decision issued on May 7, 1983, denied Bailey's application for reconsideration. Bailey did not appeal the decision any further.

Upon application of the facts here to the relevant statutory scheme, we conclude that the Secretary of Labor's decision was final and conclusive in Bailey's federal workman's compensation case.

2. Bailey also contends that even if we find that the Secretary of Labor's decision was final, several exceptions to the general rule of issue preclusion are applicable so as to bar the doctrine of issue preclusion in this case. Bailey claims that (a) under the federal statutory scheme in effect, he could not, as a matter of law, have sought or obtained judicial review of the judgment in the Secretary of Labor's decision, and (b) he was denied the quality and extensiveness of the procedural safeguards provided by the district courts and was thus denied an adequate opportunity to obtain a full and fair adjudication in the initial action.

Upon our review of the record, we conclude that neither exception to the doctrine is applicable in this case. In support of Bailey's first claimed exception, Bailey relies upon § 28 of the Restatement (Second) of Judgments, which provides, in relevant part:

[T]he availability of review for correction of errors has become critical to the application of the preclusion doctrine. There is a need for an analogous exception to the rule of preclusion when the determination of an issue is plainly essential to the judgment, but the party who lost on that issue is, for some reason, disabled as a matter of law from obtaining review by appeal.

In light of the relevant statutory scheme in place, we find Bailey's reliance on § 28 to be misplaced. It is clear from the FECA that procedures for review and appeal exist within the authority of the Department of Labor, and that Bailey had full knowledge of his appeal rights under this statutory scheme and had a full and fair opportunity to avail himself of them. Furthermore, although decisions of the Secretary of Labor are not subject to independent judicial review, it has been held that when the government creates the right to assert a claim against it, the government need not provide for judicial remedy. Blanc v. United States, 244 F.2d 708, 710 (2nd Cir. 1957). In this case, Congress has determined that the procedural safeguards available to federal employees under FECA are adequate without the need for judicial review.

Bailey relies upon our supreme court's decision in Village Supply Co. v. Iowa Funds, 312 N.W.2d 551 (Iowa 1981), in support of his second claimed exception to the applicability of issue preclusion in this case. In Village Supply, the court held that a decision in a small claims action does not preclude relitigation of an issue in civil

district court, and based its decision upon section 68.1(c) of the Restatement (Second) of Judgments, which states that a compelling reason for denying issue preclusion exists when "the procedures available in the first court may have been tailored to the prompt, inexpensive determination of small claims and thus may be wholly inappropriate to the determination of the same issues when presented in the context of a much larger claim." Village Supply, 312 N.W.2d at 554.

Once again, upon consideration of the FECA, we find Bailey's reliance on the Restatement (Second) of Judgments to be misplaced. We are convinced from our review of federal law that adequate procedural opportunities and safeguards were available to Bailey in his worker's compensation action. See 5 U.S.C.A. §§ 8124 (b)(2), 8126, 8127. We furthermore fail to see any procedural similarities between a small claims action and a federal worker's compensation action.

In conclusion, it is is clear from the relevant case law and the record before us that the doctrine of issue preclusion was correctly applied by the district court. The court correctly found the Hunter factors present and applied issue preclusion to the question of whether the fall Bailey sustained caused him to suffer damages beyond January 5, 1982. The Iowa Supreme Court has acknowledged that when an administrative agency is acting in a judicial

capacity and resolves disputed issues of fact properly before it which the parties have had adequate opportunity to litigate, the courts have not hesitated to apply res judicata to enforce repose. Toomer v. Iowa Department of Job Service, 340 N.W.2d 594, 598 (Iowa 1983). We therefore affirm the court's ruling on Defendant's Motion for Partial Summary Judgment, as well as Defendant's Motion in Limine.

AFFIRMED.