

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2013-CA-000287-MR

RONALD HOLT

APPELLANT

v.

APPEAL FROM GRANT CIRCUIT COURT  
HONORABLE STEPHEN L. BATES, JUDGE  
ACTION NO. 12-CI-00413

DANA LIGHT AXLE  
MANUFACTURING, LLC

APPELLEE

OPINION  
AFFIRMING

\*\* \*\* \* \* \* \* \*

BEFORE: COMBS, DIXON, AND VANMETER, JUDGES.

COMBS, JUDGE: The Grant Circuit Court dismissed Ronald Holt's complaint based on his failure to state a claim upon which relief can be granted. Holt appeals that dismissal and argues that the trial court erred by concluding that Dana Light Axle Manufacturing, LLC, his employer, had no duty to assist him in a medical emergency.

Holt experienced chest pain while on the job. The trial court held that Dana Manufacturing did not have a duty either to notify on-site medical personnel that he was suffering with chest pain or to direct him to a hospital emergency room. Dana Manufacturing argues that the trial court properly dismissed the complaint, contending that it did not have a duty to make medical decisions or to seek out treatment on behalf of an employee under the circumstances. We are precluded from addressing these contentions because the provisions of the Workers' Compensation Act vest exclusive jurisdiction in the Workers' Compensation Board to decide matters within the scope of the Act.

On September 7, 2011, Holt was employed by Dana Manufacturing in Dry Ridge. After working for about an hour, Holt began to experience severe pains in his chest. Complaint at 2. He reported this to his immediate supervisor, Michael Mullins. Mullins did not send Holt to the on-site medical facility nor did he direct him to any other emergency medical personnel. Instead, Holt was apparently persuaded to go back to work. After working for another thirty minutes, Holt spoke to Mullins again. He informed Mullins that he was still having chest pain and was "possibly having a heart attack." *Id.* According to Holt, Mullins then consulted with another supervisor, Tony Collins. Mullins, Collins, and Holt discussed whether Holt would receive an "occurrence" (a demerit) on his attendance record if he left work for the hospital. Following the discussion, Holt again returned to work. However, he continued to complain to the supervisors (to no avail) that he was having chest pain.

Three hours after he first reported having chest pain, Holt left work and drove himself to the emergency room of a local hospital. The following day, a stent was placed in Holt's artery to improve blood flow and to relieve his chest pain.

Holt filed the action underlying this appeal on September 5, 2012. He claimed that Dana Manufacturing had negligently failed to allow him to seek emergency medical care either on-site or at the hospital's emergency room. He alleged that as a result of his employer's negligence, he had suffered increased damage to his heart and had endured "undue stress due to fear of retaliation by his employer for leaving work." Complaint at 5.

Dana Manufacturing did not file an answer. Instead, it filed a motion to dismiss under the provisions of Kentucky Rule[s] of Civil Procedure (CR) 12.02 for failure to state a claim upon which relief can be granted. On January 2, 2013, the trial court granted the employer's motion to dismiss. This appeal followed.

In their briefs, the parties have correctly identified the standard of our review of an order granting a motion to dismiss for failure to state a claim. They have also discussed at length the public policy implications of imposing a duty upon an employer to render aid to its employee under the circumstances presented by this case. However, humanitarian considerations notwithstanding, the real issue underlying this claim is the applicability of the exclusive remedy provision of our Workers' Compensation Act. Neither party has touched upon this fundamental and dispositive issue.

Kentucky Revised Statute[s] (KRS) 342.690(1) provides in pertinent part as follows:

If an employer secures payment of compensation as required by this chapter, the liability of such employer under this chapter *shall be exclusive* and in place of all other liability of such employer to the employee. . . .

(Emphasis added). The provisions of our Workers' Compensation Act supersede common-law negligence actions of injured employees wholly and exclusively.

Holt's complaint indicates that he sought to recover in tort for the personal injuries that he had allegedly sustained at work. Unless an employee has expressly opted out of our workers' compensation system, statutory liability is substituted for the common-law tort remedy, and the injured worker's recovery is restricted to workers' compensation benefits. An injured worker cannot claim or recover damages from a participating employer for work-related injuries.

Our workers' compensation law applies if Holt's injuries arose out of and in the course of his employment with Dana Manufacturing. KRS 342.0011(1). An injury arises out of the employment if it is "the direct and natural result of a risk reasonably incident to the employment in which the injured worker was engaged." *Palmer v. Main*, 209 Ky. 226, 272 S.W. 736, 738 (1925). The injury in this case was not the heart attack itself but the potential increase in damage to Holt's heart resulting from the delay in treatment as well as the alleged psychological trauma that accompanied his decision to leave work to seek treatment.

Holt's injuries arose out of and during the course of his employment. The delay in receiving emergency medical care either on-site or elsewhere – along with the associated psychological injury – were the result of activity related to his employment with Dana Manufacturing. Dana Manufacturing provided at least basic on-site medical services to its employees. As an employee, Holt was entitled to those services. If Holt had not been at work and subject to the company's on-site medical services facility, he might have received more expeditious medical care. Because his trauma occurred while at work, better services were not available to him. Furthermore, he suffered the indifference of supervisors who were unwilling or unable to facilitate the medical care that he needed. Thus, Holt's injuries – the increase in damage to his heart and the attendant psychological trauma – may not have occurred had he not been at work and under the rather callous supervision of Mullins and Collins.

Since Holt's injuries arose out of and in the course of his employment with Dana Manufacturing, his employer was entitled to invoke the protection of the exclusive liability provision of our Workers' Compensation Act. The Grant Circuit Court had no subject matter jurisdiction over the matter, and dismissal of the action was proper.

ALL CONCUR.

BRIEF FOR APPELLANT:

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