

Virginia HUCKABY v. CARGILL, INC.

CA 86-292

725 S.W.2d 856

Court of Appeals of Arkansas
Division I

Opinion delivered March 18, 1987

1. **WORKERS' COMPENSATION — GROUNDS FOR APPELLATE COURT REVIEW.** — Under Ark. Stat. Ann. § 81-1325 (Supp. 1985) the appellate court shall review only questions of law and may modify, reverse, remand for rehearing, or set aside the order or award, upon any of the following grounds, and no other: (1) That the Commission acted without or in excess of its powers, (2) that the order or award was procured by fraud, (3) that the facts found by the Commission do not support the order or award, or (4) that the order or award was not supported by substantial evidence of record.
2. **APPEAL & ERROR — COURT CANNOT DECIDE RES JUDICATA EFFECT OF DECISION ON CLAIM NOT YET BROUGHT.** — The appellate court cannot determine whether the opinion of the Commission will have a *res judicata* effect on issues raised in her claim for permanent disability or rehabilitation benefits because appellant has not yet brought this claim.
3. **APPEAL & ERROR — NO ADVISORY OPINIONS.** — The court of appeals does not issue advisory opinions.

Appeal from Arkansas Workers' Compensation Commission; dismissed.

Odom, Elliott & Martin, by: *Laura J. McKinnon*, for appellant.

Mashburn & Taylor, by: *Michael H. Mashburn*, for appellee.

DONALD L. CORBIN, Chief Judge. This appeal comes to us from the Workers' Compensation Commission. Appellant, Virginia Huckaby, requests that this court clarify the opinion of the Commission. We dismiss the appeal.

Appellant's request on appeal is that this court clarify the opinion of the Commission and hold that it may not act as a bar to any future litigation of the issues of permanent disability and vocational rehabilitation, which issues appellant asserts were properly reserved. Appellant does not argue that the opinion of

the Commission was erroneous or that it should be reversed. In the alternative, appellant requests that this case be remanded to the Administrative Law Judge for judgment on the merits of the reserved issues of permanent disability and vocational rehabilitation. Appellant cites no authority in support of either her request for clarification or her alternative request for remand to the Administrative Law Judge.

[1] Under Ark. Stat. Ann. § 81-1325 (Supp. 1985) this court shall review only questions of law and may modify, reverse, remand for rehearing, or set aside the order or award, upon any of the following grounds, and no other:

- (1) That the Commission acted without or in excess of its powers.
- (2) That the order or award was procured by fraud.
- (3) That the facts found by the Commission do not support the order or award.
- (4) That the order or award was not supported by substantial evidence of record.

[2, 3] Appellant does not ask for a reversal because of any error of the Commission. Rather, appellant requests that this court clarify the opinion of the Commission or, in the alternative, remand the case to the ALJ for a determination as to permanent disability and vocational rehabilitation. Appellant's request is premature. This court cannot determine whether the opinion of the Commission will have a *res judicata* effect on issues raised in her claim for permanent disability or rehabilitation benefits because appellant has not yet brought this claim. This court does not render advisory opinions. *Neeley v. Barber*, 288 Ark. 384, 706 S.W.2d 358 (1986).

This court is not empowered to grant the type of relief appellant requests in her appeal. Therefore, we hereby dismiss appellant's appeal. It is unnecessary to discuss the Commission's decision because that issue is not properly before this court.

Dismissed.

CRACRAFT and JENNINGS, JJ., agree.
