

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICK GOODWILL,  
Appellant,  
vs.  
BUILDERS INSURANCE COMPANY,  
Respondent.

No. 46153

FILED

MAY 09 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Rubard*  
CHIEF DEPUTY CLERK

This is an appeal from a district court order denying a petition for judicial review in a workers' compensation case. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

Appellant Rick Goodwill was injured while working as a carpenter for Bronco Construction. Due to his resulting work restrictions, Bronco did not have a job for Goodwill, and he participated in vocational rehabilitation to become a neon tube bender. As part of Goodwill's vocational rehabilitation plan, he was to receive job placement assistance in Las Vegas. Before finishing rehabilitation, Goodwill decided to move to Arizona to be with family. Goodwill spoke with his vocational rehabilitation counselor about moving to Arizona but did not contact Bronco's insurer, respondent Builders Insurance Company, about moving out of state. Upon being rehabilitated, Goodwill sought and obtained a job in Arizona, without the assistance of his vocational rehabilitation counselor.

Goodwill requested temporary partial disability (TPD) benefits to make up the difference between his six-dollar-per-hour wage and his temporary total disability (TTD) wage amount. The insurer denied his request. Goodwill administratively appealed, and a Department of Administration hearing officer reversed the insurer's decision. The

insurer then administratively appealed, and the appeals officer found that Goodwill refused a job search within Las Vegas and determined that he was not eligible for TPD under NRS 616C.590(7). The district court denied Goodwill's petition for judicial review, and Goodwill appealed.

Goodwill's TPD eligibility under NRS 616C.590(7)

In an appeal from a district court order denying judicial review of an administrative decision, we review the appeals officer's factual determinations and fact-based conclusions of law for an abuse of discretion, and we will not disturb a determination if it is "supported by substantial evidence. Substantial evidence is that which a reasonable person might accept as adequate to support a conclusion."<sup>1</sup> We review purely legal questions de novo.<sup>2</sup>

NRS 616C.500(1) provides that an injured employee is entitled to receive for a temporary partial disability the difference between the wage earned after the injury and the compensation which the injured person would be entitled to receive if temporarily totally disabled when the wage is less than the compensation, but for a period not to exceed 24 months during the period of disability.

But under NRS 616C.500(7), if an injured employee is eligible vocational rehabilitation and "refuses counseling, training or other vocational rehabilitation services offered by the insurer," then he is not "eligible for

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<sup>1</sup>Grover C. Dils Med. Ctr. v. Menditto, 121 Nev. 278, 283, 112 P.3d 1093, 1097 (2005) (quotations omitted); NRS 233B.135.

<sup>2</sup>Id.

compensation other than accident benefits.” TPD benefits are “compensation other than accident benefits.”<sup>3</sup>

In this case, Goodwill signed a contract to receive vocational rehabilitation, which included job placement assistance in Las Vegas. Without contacting the insurer and renegotiating the vocational rehabilitation services contract, Goodwill searched for a job in Arizona and moved there. Whether through explicit statements or his actions, Goodwill made it clear that he was refusing any job placement assistance in Las Vegas because he was not looking for a job in Las Vegas. The appeals officer concluded that Goodwill refused a job search in Nevada. This is a question of fact, and based on the record, we conclude that substantial evidence supports the appeals officer’s finding.

Therefore, as job placement assistance is a vocational rehabilitation service,<sup>4</sup> Goodwill has refused a vocational rehabilitation service and, under NRS 616C.590(7), is not entitled to other compensation


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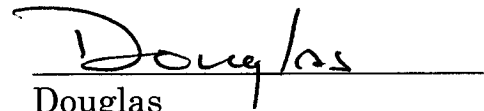
<sup>3</sup>See NRS 616C.245-616C.285 (accident benefits); NRS 616C.500 (TPD compensation). “Accident benefits” is defined in NRS 616A.035.

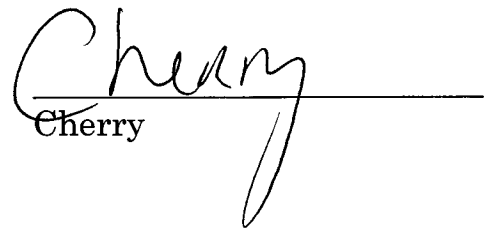
<sup>4</sup>See NRS 616C.555(3) (describing job placement assistance as part of the vocational rehabilitation services available under a plan for rehabilitation).

in the form of TPD benefits. Accordingly, we affirm the district court's order denying judicial review.

IT IS SO ORDERED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Valorie Vega, District Judge  
Eugene Osko, Settlement Judge  
Nevada Attorney for Injured Workers/Las Vegas  
Gugino Law Firm  
Eighth District Court Clerk