



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT AND CCMSI,
Appellants,
vs.
KEITH BRYANT, STATE OF NEVADA,
NEVADA DEPARTMENT OF
ADMINISTRATION, APPEALS
OFFICE, AN AGENCY OF THE STATE
OF NEVADA,
Respondent.

No. 90384-COA

ORDER OF AFFIRMANCE

Las Vegas Metropolitan Police Department (LVMPD) and its third-party administrator, CCMSI, (appellants) appeal from a district court order denying their petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Maria A. Gall, Judge.

Respondent Keith Bryant was diagnosed with persistent post-infectious bronchitis and asthma while employed as a police officer by LVMPD. Bryant filed a claim for workers' compensation benefits, relying on NRS 617.455, the statute that affords police officers compensation for certain "diseases of the lungs." NRS 617.455(1). CCMSI denied the claim, and a hearing officer affirmed the denial.

Bryant appealed to an appeals officer, and appellants maintained that NRS 617.455(1) required Bryant to show that his disease of the lungs was caused by exposure to "heat, smoke, fumes, tear gas or any other noxious gases." By contrast, Bryant argued that he qualified for

compensation under NRS 617.455(5), which provided that a disease of the lungs “is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer . . . for 2 years or more before the date of disablement if the disease is diagnosed and causes the disablement” during the course of that employment. The appeals officer reversed the claim denial, concluding that NRS 617.455(5) provided Bryant with a separate statutory basis for compensation that did not require him to establish that his diseases of the lung were caused by heat, smoke, fumes, or noxious gases.

Appellants then petitioned for judicial review, maintaining that exposure pursuant to NRS 617.455(1) was a requirement for a compensable disease of the lungs, even under subsection 5. The district court affirmed the appeals officer’s decision and denied appellants’ petition. This appeal followed.

Appellants now challenge the denial of their petition for judicial review. “On appeal, this court’s role is the same as the district court’s: to review an appeals officer’s decision for clear error or arbitrary abuse of discretion.” *Las Vegas Metro. Police Dep’t v. Holland*, 139 Nev. 96, 98, 527 P.3d 958, 962 (2023) (internal quotation marks omitted). But we “independently review the appeals officer’s purely legal determinations, including those of statutory construction.” *Id.*

Following the underlying proceedings in this case, the legislature passed Senate Bill 7 (S.B. 7), which amended the at-issue provisions of NRS 617.455. The amended NRS 617.455(5) provides that “a

disease of the lungs is *not required to be caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases* and is conclusively presumed to have arisen out of and in the course of the employment” of a person who meets the full-time and continuous service requirements. 2025 Nev. Stat., ch. 13, § 1, at 187 (36th Spec. Sess. 2025) (emphasis added). Further, the amended NRS 617.455(1) explicitly exempts from its exposure requirement individuals who satisfy subsection 5’s conclusive presumption. 2025 Nev. Stat., ch. 13, § 1, at 186 (36th Spec. Sess. 2025). Section 2 of S.B. 7 provides that “[t]he amendatory provisions of section 1 of this act apply retroactively to claims filed on or before the effective date of this act.” 2025 Nev. Stat., ch. 13, § 2, at 188 (36th Spec. Sess. 2025). Therefore, the amended version of NRS 617.455 applies to Bryant’s claim. *Pub. Emps.’ Benefits Program v. Las Vegas Metro. Police Dep’t*, 124 Nev. 138, 155, 179 P.3d 542, 553 (2008) (“[W]hen the Legislature intends retroactive application, it is capable of stating so clearly.”).

Based on the amendments to NRS 617.455, Bryant established a compensable occupational lung disease claim under subsection 5 because he demonstrated he had been working as a police officer since 2002, and he was diagnosed during his employment in 2021 with post-infectious bronchitis and asthma, conditions his pulmonologist opined were diseases of the lungs, and which caused his disablement. Both the appeals officer and the district court in this case construed the at-issue provisions in NRS 617.455 consistent with the recent amendments to those provisions wherein the legislature declared that a disease of the lungs need not be caused by exposure to heat, smoke, fumes, or noxious gases for a police officer’s disease

of the lungs to be compensable. Accordingly, the district court correctly denied appellants' petition for judicial review. We, therefore,

ORDER the judgment of the district court AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Maria A. Gall, District Judge
Janet Trost, Settlement Judge
Hooks Meng & Clement
GGRM Law Firm
Eighth District Court Clerk