

IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICE WHITLOW,

No. 38545

Appellant,

vs.

FREHNER CONSTRUCTION  
COMPANY, AND EMPLOYERS  
INSURANCE COMPANY OF NEVADA,

Respondents.

**FILED**

**DEC 17 2001**

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

ORDER OF AFFIRMANCE

Patrice Whitlow, in proper person, appeals from a district court order affirming an administrative appeals officer's determination that she is not entitled to workers' compensation benefits. The appeals officer ruled that NRS 616C.230(1)(a) bars recovery because Ms. Whitlow's workplace injury was caused by her willful intention to injure herself.

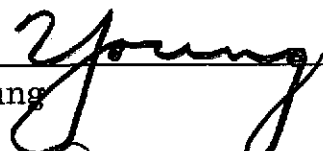
When reviewing an administrative appeals officer's decision, neither the district court nor this court may reweigh the evidence; credibility determinations, in particular, are not open to review.<sup>1</sup> If the appeals officer's decision is supported by substantial evidence and sound legal reasoning, a reviewing court must sustain it.<sup>2</sup>

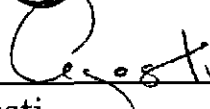
Here, the appeals officer did not believe Ms. Whitlow's testimony that a truck backed into her and knocked her down while she was doing her job, or that the truck rolled over her, injuring her back, neck and hips. Instead, the appeals officer believed an eye witness's testimony that Ms. Whitlow stood up, walked across the bridge she was working on, placed herself directly behind the truck and sat down. Then, when the truck began to back up, Ms. Whitlow put her feet on the bumper and began to scream, but the truck did not roll over her. Based on this eye witness testimony, plus the supporting testimony of other co-workers,


treatments for pre-existing non-industrial back and neck injuries for at least three months immediately preceding the truck incident, and a doctor's suspicion that Ms. Whitlow was seeking secondary gain, the appeals officer concluded that Ms. Whitlow intentionally placed herself behind the truck, without any work-related reason, and that her injuries were caused by her willful intent to injure herself. Because NRS 616C.230(1)(a) expressly prohibits the payment of workers' compensation for an injury caused by the employee's willful intention to injure herself, the appeals officer upheld the claim denial.

Substantial evidence and sound legal reasoning support the appeals officer's decision;<sup>3</sup> therefore, the district court did not err by affirming it. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

cc: Hon. Mark R. Denton, District Judge  
Beckett & Yott, Ltd.  
David H. Benavidez  
Karen T. Grant-Head  
Patrice Whitlow  
Clark County Clerk