

Case Name: Glenwood Gorman v. Grand Trunk Western Railroad

Date Decided: August 10th, 2009

Originally Filed in: ()

Decided by: (State)

Court: U.S.D.C. Eastern District of Michigan, Southern Division

Judge: Judge Murphy III

Citation: WL 2009 2448604 (E.D.Mich.)

Background:

Plaintiff, Glenwood Gorman ("Gorman"), a former employee of defendant, Grand Trunk Western Railroad ("Grand"), alleged he was injured as a result of a dangerous condition in which Grand required him to work. Gorman's general duties were to make sure that Grand's locomotives were worthy of service before each trip. Gorman alleged he was injured on the job while he was changing, or completing the change of, a worn engine brake shoe. Specifically Gorman testified that he was injured when lifting an engineer's chair. Gorman brought suit against Grand pursuant to the Federal Employers' Liability Act ("FELA"). Grand has moved for summary judgment alleging (1) Gorman's suit is barred by the applicable statute of limitations and (2) Gorman has not otherwise made out a FELA claim.

Issue:

Is Gorman's suit barred by the applicable statute of limitation or has Gorman failed to make out a FELA claim?

Overall Issues Discussed or Touched Upon in this Case:

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Held:

To make out a FELA claim a plaintiff must prove (1) an injury occurred while the plaintiff was working within the scope of his or her employment with the railroad (2) the employment was in the furtherance of the railroad's interstate transportation (3) the employer railroad was negligent and (4) the employer's negligence played some part in causing the injury for which compensation is sought under the Act. In order to win on summary judgment the moving party must show that the facts, construed in favor of the nonmoving party, show that there is no genuine issue of material fact and judgment must be made as a matter of law. A FELA claim must be brought within three years of the date that it accrues. Gorman filed his claim on or after July 12, 2007, thus, his claim was timely filed if he was injured on or after July 12, 2004. Gorman alleged his injury occurred on Thursday July 17th, 2004. Grand contended Gorman was not at work that day and that because Gorman cannot prove when the injury occurred then his claim is time barred by the statute of limitations. This Court held that Gorman has introduced evidence that has generated a jury question: when the injury occurred. Although

Gorman expressed uncertainty, based upon the evidence this Court held there is a genuine issue of material fact whether the claim is barred by the statute of limitations. Grand also argued Gorman has not established his working area as unreasonably dangerous. However, this Court found that there is a genuine issue of material fact presented by Gorman, based upon the testimony of employees, whether the working area was unreasonably dangerous and accordingly cannot hold as a matter of law his working conditions were not unreasonably dangerous. Furthermore, this Court held that Grand could have had knowledge about the dangerous condition of changing the brake shoes because it was an integral part of Grand's business. Finally, this Court found that it was unclear whether Gorman could have changed the brake shoes in a "better" way to avoid injury. Accordingly, Grand's motion for Summary Judgment was denied.

Comments:

Under FELA, an employee may still recover damages from his/her employer even if the employer's negligence was not the sole cause of employee's injuries. An employee's negligence contributing to injury may reduce recover but it does not necessarily bar recovery entirely. Steve Gordon <http://www.Gordon-Elias.com>