

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 25932

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

BARBARA J. CAMBRA, Claimant-Appellee,
v.
MAUI PINEAPPLE COMPANY, LTD.,
Employer-Appellant, Self-Insured,
and
SEABURY HALL and HIH AMERICA INSURANCE COMPANY OF HAWAII, INC.,
Employer/Insurance Carrier-Appellee.

KHAMAKADO
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STATE OF HAWAII

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APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 2001-369 (M) (7-00-02932) (7-89-00554))

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding Judge, Nakamura, Fujise, JJ.)

In this workers' compensation case, Employer-Appellant Maui Pineapple Company (Maui Pineapple) appeals from the May 29, 2003, "Order Denying Motion for Reconsideration" of the Labor and Industrial Relations Appeals Board (the Board) that denied Maui Pineapple's motion to reconsider the Board's March 24, 2003, "Decision and Order." In that Decision and Order, the Board found that the debilitating pulmonary condition of Claimant-Appellee Barbara F. Cambra (Cambra or Claimant) was causally related to the work injury she sustained on December 27, 1988, while working for Maui Pineapple, and was not the result of a new injury she sustained while working for her subsequent employer, Seabury Hall.

In particular, the Board found that Cambra's "current pulmonary condition is due to the slow progression of her chronic

but relatively stable pulmonary fibrosis that resulted from the hypersensitivity pneumonitis that she developed while working for Maui Pineapple on or about December 27, 1988." The Board rejected Maui Pineapple's argument that, based on a November 16, 1989, decision of the Director of the Department of Labor and Industrial Relations (the Director), Maui Pineapple was not liable for Cambra's current pulmonary condition under the doctrines of *res judicata* and collateral estoppel. The Board determined that those doctrines did not apply because:

the Director's November 16, 1989 decision did not directly decide the issue of whether Claimant was or was not suffering from pulmonary fibrosis on or about December 27, 1988, or whether pulmonary fibrosis, if present, arose out of and in the course of her employment with Maui Pineapple. The Director definitely did not at that time address or decide the issue of whether pulmonary fibrosis, if present, was causally related to the hypersensitivity pneumonitis that developed as a result of Claimant's work on or about December 27, 1988.

The Board concluded that Maui Pineapple continued to be liable for Cambra's medical and indemnity benefits after July 13, 1999.

I.

Between 1969 and 1989, Cambra was employed as a pineapple trimmer for Maui Pineapple. While employed in this capacity, Cambra experienced recurring respiratory symptoms which included shortness of breath and coughing. On December 27, 1988, Cambra was diagnosed by Dr. William Mitchell as having "hypersensitivity pneumonitis/fibrosis" related to her exposure to pineapple trimmings. Dr. Mitchell recommended that Cambra avoid exposure to pineapple trimmings and seek alternative employment. On February 10, 1989, Cambra filed a claim for a December 27, 1988, work injury, alleging that her continuous

exposure to smells and fumes at work had resulted in her sustaining "[h]ypersensitivity pneumonia, fibrotic lung disease, hard of breath." In a November 16, 1989, decision, the Director determined that Cambra suffered "hypersensitivity pneumonia"¹ on December 27, 1988, arising out her employment with Maui Pineapple. The Director ordered Maui Pineapple, among other things, to pay medical benefits and temporary total disability payments to Cambra.

Cambra left her job with Maui Pineapple and on December 10, 1989, began working for Seabury Hall, a private school, as a janitor. Between 1989 and 1999, Cambra continued to experience respiratory problems while working for Seabury Hall. In 1999, Cambra filed a claim against Maui Pineapple when it refused to pay medical benefits associated with her respiratory condition. In 2000, she filed a claim against Seabury Hall after a July 17, 1999, incident in which she experienced a severe shortness of breath while wiping shelves. Cambra's claims against Maui Pineapple and Seabury Hall were consolidated for disposition. The doctors who examined Cambra agreed that she suffered from pulmonary fibrosis which rendered her 100 percent disabled. Dr. Edward Morgan, who was retained by Maui Pineapple, opined that there was no evidence that Cambra's pulmonary fibrosis resulted from hypersensitivity pneumonitis. On the other hand, both Dr.

¹ Although Claimant-Appellee Barbara F. Cambra (Cambra or Claimant) and the Director of the Department of Labor and Industrial Relations (the Director) referred to Cambra's condition as "hypersensitivity pneumonia," Cambra's medical records identified her condition as "hypersensitivity pneumonitis." Accordingly, we presume that the Director meant to identify Cambra's condition as "hypersensitivity pneumonitis."

George Druger, retained by Seabury Hall, and Dr. Christine Fukui, Cambra's treating physician, opined that Cambra's pulmonary fibrosis was caused by hypersensitivity pneumonitis that Claimant developed while working at Maui Pineapple. The Board credited the opinions of Dr. Fukui and Dr. Druger in rendering its March 24, 2003, Decision and Order.

II.

On appeal, Maui Pineapple does not challenge the Board's determination that Cambra's pulmonary condition was causally related to the December 27, 1988, work injury she sustained while working for Maui Pineapple. Instead, Maui Pineapple argues that: 1) the Board erroneously concluded that the Director's November 16, 1989, decision did not decide the issue of whether Cambra was suffering from pulmonary fibrosis on December 27, 1988, or whether pulmonary fibrosis, if present, was a compensable work injury; 2) the Director's November 16, 1989, decision had, in fact, determined that Cambra's pulmonary fibrosis condition was not a compensable work injury; and 3) the doctrine of collateral estoppel bars Cambra from relitigating the issue of the compensability of her pulmonary fibrosis condition. Based on these arguments, Maui Pineapple contends that the Board erred in denying Maui Pineapple's motion for reconsideration.

After careful review and consideration of the record and the briefs submitted by the parties, we hold as follows:

1. The Board did not err in concluding that the Director's November 16, 1989, decision did not decide the issue of whether Cambra was suffering from pulmonary fibrosis on

December 27, 1988, or whether pulmonary fibrosis, if present, was a compensable work injury. The Director's November 16, 1989, decision did not contain any express finding on whether Cambra was suffering from pulmonary fibrosis on December 27, 1988, or whether pulmonary fibrosis, if present, was a compensable work injury. Nevertheless, Maui Pineapple contends that the Director's decision determined that Cambra's pulmonary fibrosis condition was not a compensable work injury based on the following reasoning:

a. Cambra claimed that she suffered from both "hypersensitivity pneumonia [and] fibrotic lung disease" as a result of her December 27, 1988, work injury and the medical records Cambra submitted to the hearings officer showed that she had been diagnosed as having hypersensitivity pneumonitis and pulmonary fibrosis.

b. In awarding benefits to Cambra, the Director found that Cambra suffered from hypersensitivity pneumonitis.

c. Maui Pineapple infers from these circumstances that the Director must have decided that Cambra's pulmonary fibrosis was not a compensable work injury.

We disagree with Maui Pineapple's reasoning. We conclude that it is not fair to infer from the Director's finding that Cambra suffered from compensable hypersensitivity pneumonitis² that the Director must have found that Cambra's pulmonary fibrosis was not a compensable work injury. First, the

² See footnote 1, supra.

Director's determination that Cambra was suffering from work-related hypersensitivity pneumonitis was sufficient to justify the Director's award of benefits; there was no need for the Director to decide whether Cambra also suffered from pulmonary fibrosis. Accordingly, the inference that the Director simply did not decide the issue of whether Cambra was suffering from pulmonary fibrosis is more plausible than the inference Maui Pineapple seeks to draw.

Second, the medical evidence established that hypersensitivity pneumonitis and pulmonary fibrosis are related conditions in that hypersensitivity pneumonitis can cause pulmonary fibrosis. Thus, the Director's determination that Cambra was suffering from work-related hypersensitivity pneumonitis does not reasonably imply that the Director found that any pulmonary fibrosis Cambra had incurred was not work-related.

2. Because the Director's November 16, 1989, decision did not decide whether Cambra was suffering from work-related pulmonary fibrosis on December 27, 1988, the doctrines of *res judicata* and collateral estoppel did not apply to restrict the Board's decision in this case. See Dorrance v. Lee, 90 Hawai'i 143, 148-49, 976 P.2d 904, 909-10 (1999) (setting forth the requirements for the application of these doctrines). We further note that the issue decided by the Director in 1989 was different than the issue decided by the Board in 2003. The Director decided whether Cambra had sustained a compensable work injury in 1988 whereas the Board decided whether Cambra's pulmonary

problems in 1999 were causally related to her 1988 work injury. This provides an additional reason why the doctrines of *res judicata* and collateral estoppel were inapplicable. Id. (requiring that "the issue decided in the prior adjudication is identical with the one presented in the action in question" as one of the conditions for applying the doctrines of *res judicata* and collateral estoppel). The Director's determination that Cambra suffered from work-related hypersensitivity pneumonitis in 1988 did not preclude a later determination that Cambra was entitled to benefits for pulmonary fibrosis that developed from her work-related hypersensitivity pneumonia.

The Board was correct in rejecting Maui Pineapple's attempt to avoid liability based on the doctrines of *res judicata* and collateral estoppel. We conclude that the Board properly denied Maui Pineapple's motion for reconsideration.

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IT IS HEREBY ORDERED that the May 29, 2003, "Order Denying Motion for Reconsideration" of the Labor and Industrial Relations Appeals Board (the Board) and the March 24, 2003, "Decision and Order" of the Board are affirmed.

DATED: Honolulu, Hawai'i, August 11, 2006.

On the briefs:

Stanley M. J. Manuia
(Stanford M.J. Manuia),
for Employer-Appellant,
Self-Insured.


Presiding Judge

Herbert K. Takahashi,
Danny J. Vasconcellos
(Takahashi, Masui
Vasconcellos & Covert)
for Claimant-Appellee.


Associate Judge

Brian G.S. Choy
(Brian G.S. Choy),
for Employer/Insurance
Carrier-Appellee.


Associate Judge