

Nevada

Workers' Compensation Law Blog

NEWS & UPDATES ON WORKERS' COMPENSATION LAWS & HELPFUL INFORMATION ON THE CLAIMS PROCESS

Crazy Interpretation of the Law on Reopening

Posted at 6:39 AM on March 20, 2011 by Virginia Hunt

I have a client who recently reopened his workers' compensation claim with Employers Insurance of Nevada so that he could have a back surgery for his worsened spinal injury. I sent over the physician progress report from his surgeon, taking him off work from the date of the surgical procedure until the day of the next follow up office visit with the doctor. Employers wrote back that his request for payment of temporary total disability benefits was denied. The reason was that my client had been laid off and was out of work at the time he requested reopening of his claim.

The adjuster for Employers told me that she was relying on [NRS 616C.390](#) to support the denial. That law says that if a claim is reopened, an injured worker is not entitled to TTD benefits if, before his claim was reopened, he ..."retired, or otherwise voluntarily removed himself from the work force for reasons unrelated to the injury." I asked the adjuster whether she was joking, or whether Employers actually considered the 14% of Nevada workers who are unemployed to be happily enjoying their "voluntary retirement". She replied that an appeals officer in the northern part of the state had interpreted the law to preclude laid off injured workers from receiving TTD benefits, and that Employers was going to point to that decision and deny benefits until told not to do that.

I've filed an appeal on behalf of my client to get a decision from a hearings officer, and then probably an appeals officer, in Las Vegas. The

decisions from one appeals officers are not binding, or precedent, on other appeals officers. For those of you who are currently laid off from work, do you consider yourself "voluntarily retired?" Le me hear from you on this issue.

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