

NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-4531-12T4

BOBBIE KEHOE,

Petitioner-Appellant,

v.

ULTRALUM ENTERPRISES, INC.,

Respondent-Respondent.

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Argued March 5, 2014 – Decided March 18, 2014

Before Judges Fuentes, Fasciale and Haas.

On appeal from the New Jersey Department of Labor, Division of Workers' Compensation, Claim Petition No. 2008-13790.

Louis W. Boltik argued the cause for petitioner (Gaylord Popp, LLC, attorneys; Mr. Boltik, on the brief).

Richard J. Williams, Jr., argued the cause for respondent (McElroy, Deutsch, Mulvaney & Carpenter, LLP, attorneys; Mr. Williams, of counsel and on the brief; Michael D. Celentano, on the brief).

PER CURIAM

Petitioner Bobbie Kehoe appeals from the denial of a dependency claim she filed with the Division of Workers' Compensation. Petitioner was in a committed relationship with Scott Sunkimat and lived with him from 1999 until his death in

March 2007. Decedent fell from a platform while engaged in the performance of his duties as an employee of respondent Ultralum Enterprises. It is thus undisputed that decedent died as a result of a work-related accident, rendering his statutorily recognized dependents eligible to receive benefits under the Workers Compensation Act. N.J.S.A. 34:15-13(f).

The Judge of Compensation denied petitioner's application for benefits as decedent's surviving spouse under N.J.S.A. 34:15-13(f), because she was not married to decedent at the time of his death through a legally recognized and licensed ceremony of marriage, and the Legislature in New Jersey has proscribed common law marriages. Crowe v. De Gioia, 90 N.J. 126, 132 (1982); N.J.S.A. 37:1-10. The Judge of Compensation also rejected petitioner's argument that New Jersey was bound to recognize and give full faith and credit to her common law marriage in Texas. In support of this argument, petitioner claimed that during a two-week visit to Texas in 2004, she and decedent established the elements necessary to create a common law marriage under Texas law by (1) agreeing that they were then married; (2) cohabitating as husband and wife; and (3) representing to others that they were husband and wife.

Petitioner now appeals to this court raising the same argument rejected by the Judge of Compensation. We affirm. We

derive the following facts from the record developed before the court of compensation.

Commencing in 1999, petitioner and decedent began cohabitating in their home in Point Pleasant, New Jersey. According to petitioner, they made a life-long "commitment to each other" and "planned to spend the rest of [their] lives together[,]" despite declining to marry. Petitioner testified that they shared utility bills and bank accounts, and both of their names were on the deed of their home.<sup>1</sup> She was the sole beneficiary of decedent's retirement plan; however, she was not the beneficiary of his life insurance policy. They represented themselves as husband and wife while in public, and petitioner's daughter referred to the decedent as her stepfather.

In June 2004, petitioner, decedent, and petitioner's daughter travelled to Texas for a two-week vacation, returning to New Jersey in July 2004. The three of them stayed with petitioner's stepfather's sister, Carole Shubeck, in an apartment located off of Shubeck's residence. Shubeck testified that petitioner and decedent publicly introduced themselves as husband and wife during their two-week stay. She did not

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<sup>1</sup> Petitioner did not indicate whether they held title to this property as tenants in common or as joint tenants with rights of survivorship.

discover they were not formally married until after decedent's death.


Petitioner testified that they referred to each other as husband and wife while on vacation because that was "what Carole [Shubeck] thought was easier." Petitioner explained that "[s]ome people don't understand when you are committed to somebody for the rest of your life and it's kind of weird to call them your boyfriend or girlfriend." She testified that they did not have any plans to get married until after they both retired.

Our review of decisions made by a Judge of Compensation is limited. We must determine "'whether the findings made could reasonably have been reached on sufficient credible evidence present in the record, considering the proofs as a whole, with due regard to the opportunity of the one who heard the witnesses to judge of their credibility.'" Lindquist v. City of Jersey City Fire Dep't., 175 N.J. 244, 262 (2003) (quoting Close v. Kordulak Bros., 44 N.J. 589, 599 (1965)). We will reverse an administrative agency decision only if "it is arbitrary, capricious or unreasonable or it is not supported by substantial credible evidence in the record as a whole." In the Matter of Taylor, 158 N.J. 644, 657 (1999) (quoting Henry v. Rahway State Prison, 81 N.J. 571, 581 (1980)).

Here, it is undisputed that petitioner and the decedent were never formally married under New Jersey law. On the facts presented, petitioner is not entitled to benefits under N.J.S.A. 34:15-13(f). Petitioner's argument based on the recognition of common law marriages by the State of Texas lacks sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We affirm substantially for the reasons expressed by the Judge of Compensation. R. 2:11-3(e)(1)(D).

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION