

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4383-14T3

JAMES LAKE,

Petitioner-Respondent,

v.

SOUTH JERSEY PUBLISHING,

Respondent-Appellant,

v.

THE HOME DEPOT,

Respondent-Respondent.

Submitted January 12, 2016 – Decided April 22, 2016

Before Judges Rothstadt and Currier.

On appeal from the Division of Workers'
Compensation, Claim Petition No. 2000-37956.

Cooper Levenson, P.A., attorneys for
appellant (Walter J. LaCon, on the brief).

Cipriani & Werner, attorneys for respondent
The Home Depot, join in the brief of
appellant South Jersey Publishing.

Respondent James Lake has not filed a brief.

PER CURIAM

We granted respondent South Jersey Publishing (South
Jersey) leave to appeal from the Division of Workers'
Compensation court's April 9, 2015 order permitting petitioner

James Lake to reinstate his previously dismissed petition for benefits. Lake's petition had been dismissed on December 16, 2013, for failure to prosecute because he did not file a required medical report. Lake filed a motion to restore which the court stamped filed one day beyond the one-year expiration date for filing. Despite the one-day delay, the court granted Lake's application over respondent's objection, finding that the motion arrived at the courthouse the day before it was stamped filed, and that good cause existed for Lake's failure to timely prosecute his petition.

On appeal, South Jersey argues numerous points challenging the judge of compensation's order. It asserts that the judge erred by finding Lake's motion was timely filed, relying on Lake's supplemental certification, and failing to provide an adequate legal basis for his decisions. South Jersey also contends that the judge improperly took judicial notice of facts, incorrectly relied on hearsay in considering the timeliness of Lake's motion, and erred by finding good cause existed warranting restoration of Lake's petition. In addition, it claims that the judge erred in applying Rule 4:50-1(a) through (f) and in relying upon an unpublished appellate division case. Finally, South Jersey argues the judge abused his discretion in his application of Rule 4:50-1.

We find no merit to these contentions. We affirm.

In our review of workers' compensation courts' decisions, we generally give substantial deference to their determinations, limiting our review to "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 . . . 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)). Deference must be accorded unless "manifestly unsupported by or inconsistent with competent relevant and reasonably credible evidence as to offend the interests of justice." Ibid. (quoting Perez v. Monmouth Cable Vision, 278 N.J. Super. 275, 282 (App. Div. 1994), certif. denied, 140 N.J. 277 (1995)). However, where, as here, "[i]t is the legal consequences flowing from those facts that form the basis of [the] appeal[, w]e owe no particular deference to the judge of compensation's interpretation of the law." Sexton v. Cnty. of Cumberland/Cumberland Manor, 404 N.J. Super. 542, 548 (App. Div. 2009); see also Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995).

Applying this standard, and based upon our careful review of the record and applicable legal principles, we affirm

substantially for the reasons stated by the judge of compensation, whose decision we conclude was supported by sufficient credible evidence on the record as a whole, R. 2:11-3(e)(1)(D), and was legally correct. We find that South Jersey's contentions are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We add only the following comments.

The New Jersey Workers' Compensation Act "provides a remedy to an employee who suffers injury 'arising out of and in the course of employment.'" Brunell v. Wildwood Crest Police Dep't, 176 N.J. 225, 236 (2003) (quoting N.J.S.A. 34:15-7). Because the Act is "remedial social legislation [it] should be given liberal construction in order that its beneficent purposes may be accomplished." Kahle v. Plochman, 85 N.J. 539, 547 (1981).

A claim under the Act may be dismissed for want of prosecution, "subject, however, to the right to have the petition reinstated for good cause shown, upon application made . . . within one year thereafter." N.J.S.A. 34:15-54. There are no statutory exceptions to the one-year requirement for filing a motion to reinstate, but the Court has recognized that judges of compensation possess the inherent power to excuse the one-year time bar based upon the grounds set forth in Rule 4:50-1. See Beese v. First Nat'l Stores, 52 N.J. 196, 200 (1968).

As we have previously observed, "it is abundantly clear that the Division has the inherent power, 'comparable to that possessed by the courts . . . , to reopen judgments for fraud, mistake, inadvertence, or other equitable ground.'" Hyman v. Essex Cnty. Carpet Cleaning Co., 157 N.J. Super. 510, 516-17 (App. Div. 1978) (quoting Beese, supra, 52 N.J. at 200). However, "a decision to reopen must not be arbitrary or based on whim. The presence of a legally adequate motivating element must be manifest." Ibid.

We conclude from our review that the judge of compensation carefully and properly exercised his discretion in determining whether to consider Lake's motion and then granting him relief. As set forth in the judge's oral decision and amplification, he determined that Lake filed his motion in a timely manner and satisfied his burden by establishing his delay in filing the medical reports was largely due to his and his spouse's injury and illness. We discern no abuse of discretion.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION