

Case Name: Chris L. Dashner v. CSX Transportation, Inc.

Date Decided: July 13th, 2009

Originally Filed in: ()

Decided by: (State)

Court: District Judge Gilbert

Judge: U.S.D.C. Southern District of Illinois

Citation: 2009 WL 2060077 (S.D.Ill.)

Background:

Plaintiff, Chris L. Dashner ("Dashner"), filed an action against defendant, CSX Transportation Inc. ("CSX"), under the Federal Employer's Liability Act ("FELA"). CSX filed a Motion for Partial Summary judgment. In 1991, Dashner was promoted to the position of roadmaster where he spent approximately 12 hours a week performing physical labor. In 2005, Dashner began experiencing severe pain in his neck, back, and right knee. Dashner left CSX in September due to the pain because he felt he could no longer perform his duties. CSX filed motion for summary judgement claiming that Dashner has not presented any evidence showing that CSX failed to provide a safe workplace as required under FELA.

Issue:

Will the court grant defendant's Motion for Summary Judgment?

Overall Issues Discussed or Touched Upon in this Case:

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Held:

A FELA claim cannot survive summary judgment unless the plaintiff has offered evidence proving the common law elements of negligence, including duty and breach. A railroad has a general duty to its employees to provide a safe workplace and when determining whether a railroad breached that duty the standard of care is that of a prudent person. Moreover, under FELA, negligence is not established unless the plaintiff shows the defendant had actual or constructive notice of the unsafe working conditions. After viewing the record this Court found that Dashner, after making all reasonable inferences in his favor, provided the Court with evidence of circumstances a reasonably prudent person would foresee as potentially harmful. Dashner described several strenuous he performed as assistant and roadmaster. One task required Dashner to walk through rock that was shifting and rolling while he climbed over piles of railroad ties. Moreover, he testified he repetitively used a pick to remove mud from the tracks. Also, Dashner testified he complained several times to supervisors to put piles of rock in a different area so that he did not have to walk on the rocks while using a pick. Therefore, CSX had constructive and actual notice of an unsafe working condition because a reasonable prudent person would foresee these circumstances as an unsafe and potentially harmful. This

Court found there are genuine issues of material fact whether CSX had notice of the unsafe conditions leading to Dashner's injuries and therefore, summary judgment was denied.

Comments:

To win on summary judgment the moving party must show that based upon the evidence, construed in favor of the nonmoving party, that there are not genuine issues of material fact and that the court must rule in favor of the moving party as a matter of law. Here, the genuine issue of material fact is whether CSX should have known or had actual notice of the unsafe working condition Dashner was allegedly subject to. Therefore, their motion of summary judgment was denied. Steve Gordon <http://www.gordon-elias.com>