

Cases for case briefs

[Business](#), [Human Resources](#)



Safety Misconduct: Wade Nance v. Industries (TN Case) due: ing Judge: Allen W. Wallace, Sr. J.

Originating Judge: Leonard W. Martin, Chancellor

The case of Wade Nance v. State Industries originated from safety misconduct. On June 7, 1998, complainant (Wade Nance) while performing his duties for the employer (State Industries) as a greaser suffered a fractured right ankle. Wade Nance had positioned himself on a ladder, precisely four to five feet from the floor and was trying to grease a turn-roller machine in the employers paint shop. Another employee unexpectedly activated the machine, causing the employee to fall, injuring his ankle. This was workers compensation appeal that had been submitted to the Special Workers Compensation Appeals Panel of the Supreme Court, as per Tenn. Code Ann. Section 5-6-225 (e)(3) for hearing and writing to the Supreme Court for concrete evidence and conclusions of law. This case was initially tried on November 29, 1999 by the trial court, and the trial court verdict was in favor of employer/defendant (State Industries). This was because of employees failure to use a standard safety process. This is despite safety procedure and the training manual distributed to all employee by the employer (Courts, 2004).

On July 15, 2002, the case was brought again before the same judge. On appeal, the Workers Compensation Panel voiced a new four-prong procedure to be applied when employers assert the affirmative defense of failure to use a safety appliance in the case of Wade Nance versus State Industries and ITT Hartford Insurance Company, 33 S. W. 3d 222 (Tenn. 2). The four-prong test enumerated were:-

- (1) During the accident, the employer had in effect a guiding principle requiring the employees use safety device
- (2) The employer had carried out strict, continuous and bona fide enforcement of the safety guiding principle
- (3) The employee had actual know-how of the policy, through training provided by the employer
- (4) The employee intentionally failed to follow the established guiding principle involving the use of the safety appliance.

The panel ruled that the employer had carried its burden of evidence on elements one, three, and four, and remanded the court case for a new trial on element two. On July 15, 22, the case was tried again before the same judge (Allen W. Wallace, Sr. J.) and the court determined State Industries, employer, had carried out a strict, continuous and bona fide enforcement policy (Courts, 2004).

In addition, they further had training classes, and employee had received training on safety procedure. Evidence in this case showed that some employees did not use this safety procedure even though they had a device to initiate the procedure.

Main points

The Case of Wade Nance v. State Industries originated from safety misconduct, On June 7, 1998. This case was a workers compensation appeal that had been passed on to the Special Workers Compensation Appeals Panel of the Supreme Court, as per Tenn. Code Ann. Section 5-6-225 (e)(3) for hearing. According to the events that led to the case, the employer required lock-out/tag out safety procedure and the employee did not use the

procedure. It is vital to note that the purpose of the lock-out/tag out procedure is to prevent a machine from being activated while being cleaned or otherwise maintained. Evidence in this case indicated some employees did not use this safety procedure even though they had a device on their person to initiate the procedure. On appeal, the Workers Compensation Panel voiced a new four-prong strategy to be applied when employers assert the affirmative defense of failure to use a safety appliance.

Reference

Courts, T. s. (2004, March 12). Tennessee Administrative Office of the Courts. Wade Nance v.

State Industries,. Retrieved March 24, 2014, from <http://www.tncourts.gov/courts/workers-compensation-panel/opinions/2004/03/12/wade-nance-v-state-industries>