Court Case Application

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Introduction

Nelson v. Yellow Cab Company was a case that dealt with workers compensation. My workplace is a retail environment and has had several workplace injuries. Some of the injuries have gone undocumented because employees were not filing a case. In 2008 during the holiday season one of the company’s employees was driving home after an 18 hour-shift. The employee was working on Black Friday one of the biggest holiday season and was given an 18 hour-shift by the company. In the time that he was driving home which was a 40 minute drive; hefell asleep behind the wheel and lost his life. The family fought and believed that the company needed to pay off the cost of the funeral arrangement and compensation for the loss of a son/brother. The company had scheduled the employee for an 18 hour-shift, when the employee was originally hired eight years prior, he wrote that his max shift would be 12 hours. The company provided only one lunch break within the first six hours based on New York State Law and did not give him another break for the day. The company fought back and said they are sorry for the lost but could not be held liable for the employee who was not on the clock at the time of his death. After, the company contacted the Health and Safety Executive (HSE) incident contact center it was noted that the company was in violation of labor laws and that the family would be entitle to the compensation found under the legal guidelines of the workers compensation law.

The court ruled Nelson was an employee of Yellow Cab. The courts had to decide if Nelson was an employee or an independent contractor. The courts looked at the four elements which determine the right of control. The four elements are: direct evidence of the right or exercise of control, furnishing of equipment, right to fire, and method of payment. It is not the actual control then exercised, but whether there exists the right and authority to control and direct the particular work or undertaking, as to the manner or means of its accomplishment (David J. Walsh).

Yellow Cab argued it had lack of control over Nelson. After Nelson paid his $79.00 for the day, he could drive the cab anywhere he wanted. However, Yellow Cab mandated he could not pick up non paying customers; he could not pick up customers at the airport or from the docks. Because Yellow Cab did the advertising for the drivers, provided business cards with Yellow Cab logo and maintained insurance on the cabs, the Court of Appeals found this factor leaned heavily in favor of a finding of a right of control by Yellow Cab. The Court did find the furnishing of equipment element to be relatively neutral.

The court ruled in Nelson’s favor for the right to fire. Yellow Cab had the right to terminate Nelson according to his application. If a cab driver was drinking and driving, had too many accidents, failed to deliver packages, did not comply with the dress code, or if a driver falsified information on his or her application, the company had the right to terminate of discipline the employee. These rules go beyond the right to terminate an independent contractor relationship.

The court held that the method of payment was in favor of Yellow Cab. Once a driver paid the $79.00 fee they are free to keep any fares collected that day. Yellow Cab did not provide drivers with a W-2 or 1099. Yellow Cab did have a small degree of control over payment because it was dictated the amount of fare Nelson could charge customers and required him to use a meter.

The final decision was based on the right to control, not the amount of actual control exercised. It was noted that the “right to control” maintained by Yellow Cab sustains the factual and legal conclusions of the Workers’ Compensation Commission. The evidence states Nelson was an employee of Yellow Cab.

References