



Ankin Law Office LLC

Protecting the Rights of Injured Workers

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Illinois Court on Admissibility of Economist's Testimony in Workers' Compensation Case



In a recent Appellate Court of Illinois, First District decision, *United Airlines v. Workers' Compensation Commission*, No. 1-09-2966WC, at issue was whether the lower court properly upheld the adoption of the decision of the arbitrator below in an [Illinois Workers' Compensation case](#). The disputed issue revolved around the determination of the nature and extent of the claimant's injuries. The employer disputed the calculation of wage differential benefits, in part because the arbitrator excluded the testimony of their expert on that issue.

As a matter of background, the claimant was injured on the job while working as a flight attendant. She sustained injuries to her back which required 2 surgeries to her back and extensive physical therapy and medical treatment as part of her recovery. During arbitration, her employer sought to introduce the testimony of an economist to prove the predicted age that she would have left the workforce. The arbitrator declined to allow his testimony, ruling that it was irrelevant in a section 8(d)(1) proceeding.

The employer appealed, asserting that "the clause "duration of disability" in section 8(d)(1) of the Act refers to the duration of a claimant's impaired earning capacity and (its expert's) opinions were relevant to a calculation of benefits under section 8(d)(1)."

As explained by the Court, the core issue on appeal revolved around the parties conflicting views regarding the meaning of the term "disability":

Here the parties dispute the meaning of "disability" as used in section 8(d)(1). Claimant contends "disability" refers only to physical or mental disability while employer maintains it also encompasses economic disability. The arbitrator and Commission rejected employer's interpretation, relying on *Petrie v. Industrial Comm'n*, 160 Ill.App.3d 165, 513 N.E.2d 104 (1987).

The Court agreed with the claimant and upheld the Commission's decision, stating that the opinion of the employer's expert was "irrelevant to a determination of wage differential benefits... (since) "disability" in section 8(d)(1) does not refer to economic disability and employer's proffered evidence is not relevant to determining the "duration of [claimant's] disability."

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Thus, the Court found in favor of the injured worker, allowing her to collect the wage differential benefits originally rewarded to her by the arbitrator.

Howard Ankin of Ankin Law Office LLC (www.ankinlaw.com) handles [workers' compensation](#) and [personal injury cases](#). Mr. Ankin can be reached at (312) 346-8780 and howard@ankinlaw.com.

By [Admin - BN](#)
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