

# Pa. Panel Says Summer Camp Doesn't Make Worker Seasonal

By **Matthew Santoni**

Law360 (March 26, 2025, 4:11 PM EDT) -- An injured "excursion director" for a Pennsylvania campground can't be considered a seasonal employee — and thus entitled to less in workers' compensation — based solely on the camp's summer operations, a state appellate court ruled Wednesday.

The Commonwealth Court panel said a workers' compensation judge and the workers' compensation appeals board had misapplied precedent when they determined that Jared Caldwell was a seasonal employee based on his employer's summer schedule, rather than looking at his job as a whole and whether it could be done year-round elsewhere.

"The factfinder had to consider the facts of this case, focus on claimant's contract, and determine whether, based on those facts, claimant was a seasonal employee," wrote Judge Lori Dumas for the **unanimous panel's opinion**. "Specifically, the factfinder had to address whether claimant could perform his work duties as an excursion director only during the ten-week season, much like the arena football player who was contractually obligated to play football for five months or the agricultural worker who could only harvest particular crops."

Caldwell's case was remanded to the appeals board for a fresh consideration of whether he was a seasonal worker, and a potential recalculation of the interest on his unpaid workers' comp benefits. The panel upheld a reduction in the attorney fees his lawyers could recover.

Caldwell had allegedly fallen about 10 feet from a rock-climbing tower, injuring his neck and right leg, while working at the northeastern Pennsylvania camp for a 10-week stint in 2021.

When the camp resisted paying him workers' compensation, Caldwell filed and won on a claim petition and a penalty petition, though the workers' compensation judge reduced his benefits on the grounds that he was only a seasonal worker.

Caldwell appealed to the appeals board, which affirmed the judge, then to the Commonwealth Court.

The appellate panel noted on Wednesday that a 1927 state Supreme Court precedent, *Froehly v. T.M. Harton Co.* (●), had held that working at a seasonal job did not immediately qualify someone as a seasonal worker — they could be injured and unable to do work that they might do elsewhere at other times of year, like the Froehly case's dishwasher employed by a seasonal amusement park. A tractor driver hired to help with a harvest was a year-round worker, but the farmhands hired to pick the seasonal crops were not, the panel said.

Other, more recent cases had upheld the need to look at the nature of the job, rather than its schedule, the opinion said: The high court ruled in 2020 that a former member of the Pittsburgh Steelers was **not a seasonal employee** due to the length of the football season, since he had other, off-the-field job obligations that could be performed year-round.

Caldwell had argued that he could and had previously acted as an excursion and climbing guide in other places outside the summer camp season, though his employer disagreed and his employment contract with the Towanda camp lacked an explicit description of his job there, the opinion said.

But the judge and appeals board had erred when they did not make an explicit determination of

credibility and consider what Caldwell's job duties really were — and whether they could be done year-round.

"Despite employer's general agreement with claimant's description of his work duties, the WCJ and board, however, did not explain why claimant could not perform his duties during a different season. The WCJ's opinion similarly reflects no application of the Froehly/Steelers framework in its conclusion of law," Judge Dumas wrote. "More troubling, the board seemingly rejected well-settled caselaw by focusing on the seasonal nature of employer's summer camp. By focusing on the seasonal nature of employer's summer camp, the WCJ and board have ostensibly abandoned the Froehly/Steelers framework — particularly the board, which cited Froehly."

The panel rejected Caldwell's appeal of the judge's denial of interest payments because the board had awarded interest and the issue was moot, though the Commonwealth Court said the parties could seek the recalculation of additional interest to account for the ongoing proceedings. It also overturned the board's finding that Caldwell's claim for a neck injury was inadequately supported, noting that an independent medical evaluation had specifically noted he had neck pain related to his work injury.

The panel did uphold the workers' compensation judge reducing Caldwell's counsel fees from \$325 an hour to \$200 an hour. Caldwell's evidence for the \$325 request had been based on the legal fees for the Philadelphia market, not northeastern Pennsylvania, and the judge had been able to substitute his own knowledge and experience of the local market in the absence of specific evidence from Caldwell, the opinion said.

"The ruling underscores an important principle. When evaluating a worker's job under the Pennsylvania Workers' Compensation Act, a Workers' Compensation Judge must focus on the type of work being done rather than the nature of the employment," said Daniel J. Siegel, of the Law Offices of Daniel J. Siegel LLC, representing Caldwell. "In Mr. Caldwell's case, although he was employed on a seasonal basis at the summer camp, his occupation can and is performed year-round. Thus, he should not be classified as a seasonal employee, and his compensation should be calculated on an annual basis."

Counsel for the camp did not immediately respond to requests for comment Wednesday.

Judges Anne E. Covey, Lori A. Dumas and Matthew S. Wolf sat on the panel for the Commonwealth Court.

Caldwell is represented by Daniel J. Siegel of the Law Offices of Daniel J. Siegel LLC and Steven Aurbach of the Law Office of Steven T. Aurbach.

Towanda is represented by Michael A. Sebastian and Carol A. VanderWoude of Marshall Dennehey PC.

The case is Caldwell v. Towanda (WCAB), case number 498 CD 2024, in the Commonwealth Court of Pennsylvania.

--Editing by Patrick Reagan.