

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DIANE BLACK,	:	JURY TRIAL DEMANDED
Plaintiff	:	
	:	
vs.	:	NO. 06 – 01,679
	:	
LABOR READY, INC., WILLIAMSPORT STEEL	:	CIVIL ACTION
CONTAINER CORP. and RHEEM MANUFACTURING	:	
COMPANY, INC.,	:	
Defendants	:	Motion for Summary Judgment

OPINION AND ORDER

Before the Court is Defendant Williamsport Steel Container Corporation’s motion for summary judgment, filed December 15, 2008. Argument on the motion was heard February 2, 2009.

Plaintiff was injured while working at Williamsport Steel as a temporary worker, having been directed to that work location by Defendant Labor Ready, Inc., a temporary service agency. Plaintiff brought a worker’s compensation claim against Labor Ready and Labor Ready paid worker’s compensation benefits to Plaintiff. In the instant motion for summary judgment, Williamsport Steel contends that it was Plaintiff’s employer and thus immune from suit under the worker’s compensation exclusivity provision. Plaintiff argues that only Labor Ready was her employer, relying on the worker’s compensation referee’s adjudication, issued in the context of a petition for review brought by Plaintiff against Labor Ready, that Labor Ready was Plaintiff’s employer.

Initially, the Court finds that Plaintiff’s reliance on the worker’s compensation referee’s adjudication is misplaced. That adjudication does not collaterally estop Williamsport Steel from contending to be Plaintiff’s employer as the adjudication determined Labor Ready to be Plaintiff’s employer *for purposes of worker’s compensation payments*. That is an entirely different question from that of who was her employer for purposes of civil liability.

With respect to the issue of whether Williamsport Steel was Plaintiff’s employer for purposes of civil liability, courts have held the issue to revolve around whether the “employer”

has the right to control the employee's work and his manner of performing it. *See English v. Lehigh County Authority*, 428 A.2d 1343 (Pa. Super. 1981); *Accountemps v. W.C.A.B.*, 548 A.2d 703 (Pa. Commw. 1988). Here, the evidence shows that clearly Williamsport Steel did have the right to control Plaintiff's work and her manner of performing it. Therefore, the Court finds that Williamsport Steel was also Plaintiff's employer and thus immune from suit.

ORDER

AND NOW, this 6th day of February 2009, for the foregoing reasons, Defendant Williamsport Steel Container Corporation's motion for summary judgment is hereby GRANTED. Plaintiff's claims against Williamsport Steel Container Corporation are hereby DISMISSED.

BY THE COURT,

Dudley N. Anderson, Judge

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