

STATE OF MICHIGAN
COURT OF APPEALS

RONNIE WINEGAR,

Plaintiff-Appellant,

v

E.W. BLISS COMPANY, INC.,

Defendant,

and

DAKO INDUSTRIES, INC.,

Defendant-Appellee.

UNPUBLISHED

December 30, 1997

No. 197221

Oakland Circuit Court

LC No. 95-500524 NI

Before: Griffin, P.J., and Markman and Whitbeck, JJ.

MEMORANDUM.

Plaintiff appeals by right summary disposition in favor of defendant Dako Industries, Inc., his employer, based on the exclusive remedy provision of the Worker's Disability Compensation Act, MCL 418.131(1); MSA 17.237(131)(1). We decide this appeal without oral argument pursuant to MCR 7.214(E).

Plaintiff was injured when his gloved hand slipped into the gears of a press while he was using manual tools and leverage to free a jammed press ram with the assistance of his supervisor. Plaintiff had performed a similar operation on eight previous occasions with the same assistance and the same machine, without injury or even mishap. Plaintiff has submitted the affidavit of an expert asserting that injury was "certain to occur." This affidavit is inadequate since it merely restates the language of the legal test and gives no scientific or factual support for its conclusion. *Travis v Dreis & Krump Mfg Co*, 453 Mich 149, 175; 551 NW2d 132 (1996). The facts of the case fail to rise to the level of intentional tort sufficient to avoid the bar of the exclusive remedy provision. *Travis, supra* at 176, 182.

Affirmed.

/s/ Richard Allen Griffin

/s/ Stephen J. Markman

/s/ William C. Whitbeck