

Removal from the Workforce by Means of Retirement

In the case *Keene v. Workers' Compensation Appeal Board (Ogden Corp.)*, the Commonwealth Court held that a claimant, who was receiving Social Security Disability, did not remove herself from the work force, because she testified that she stopped looking for employment for a two-year period after a work-related knee replacement. Judge Friedman wrote that before the employer could suspend her benefits, they had the burden of showing that the claimant voluntarily retired. According to previous case law the employer meets this burden of proof by providing: (1) there is no dispute that the claimant retired, (2) the claimant has accepted a retirement pension, or (3) the claimant has accepted a pension and refused suitable employment. Since, the claimant did not accept the retirement pension and could not find suitable employment, there was no basis for voluntary retirement.