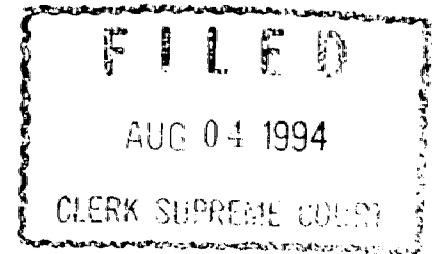


IN THE COURT OF APPEALS OF IOWA

No. 3-562 / 93-0550



JAMES W. DEMRO, Claimant,
Petitioner-Appellant,

vs.

JOHN DEERE WATERLOO WORKS,
Employer, Self-Insured,
Respondent-Appellee.

Appeal from the Iowa District Court for Black Hawk
County, George L. Stigler, Judge.

James W. Demro appeals from a district court judgment affirming a decision of the industrial commissioner denying Demro's petition for workers' compensation benefits for Demro's hearing loss. **AFFIRMED.**

John S. Pieters of Pieters, Pieters & Corzine,
Waterloo, for appellant.

John W. Rathert of Beecher, Rathert, Roberts, Field,
Walker & Morris, P.C., Waterloo, for appellee.

Considered by Hayden, P.J., and Sackett and Cady, JJ.

SACKETT, J.

The trial court affirmed an Industrial Commissioner's decision denying benefits for a hearing loss to claimant, petitioner-appellant James W. Demro. Demro appeals contending the Industrial Commissioner erred in reversing the Deputy Industrial Commissioner's finding the hearing loss was caused by his employment. The question is not that raised by the claimant, rather, the question in this appeal is whether there is substantial evidence supporting the Commissioner's decision Demro's hearing loss was not attributable to his employment. Evidence is substantial to support an agency's decision when a reasonable person would find it adequate to reach a conclusion. Eaton v. Iowa Dep't of Job Serv., 376 N.W.2d 915, 917 (Iowa App. 1985). The question is not whether the evidence might support a different finding but whether the evidence supports the findings actually made. Henry v. Iowa Dep't of Job Serv., 391 N.W.2d 731, 734 (Iowa App. 1986). The fact that two inconsistent conclusions can be drawn from the evidence does not mean that one of those conclusions is unsupported by substantial evidence. Id. We, as did the trial court, find substantial evidence to support the Commissioner's decision and affirm.

Demro contends he suffered a hearing loss as a result of noise exposure in the employer's, respondent-appellee John Deere Waterloo Works, plant. Demro sought benefits under Iowa Code chapter 85B. To recover under section

85B.4, Demro must show both that he has a permanent sensorineural loss of hearing in one or both of his ears in excess of twenty-five decibels and that his loss arises out of and in the course of employment by prolonged exposure to excessive noise. See Iowa Code § 85B.4(1); see also Muscatine County v. Morrison, 409 N.W.2d 685, 687 (Iowa 1987); Scheuermann v. Oscar Mayer Foods Corp., 515 N.W.2d 546, 547-48 (Iowa App. 1994).

The facts are primarily undisputed. Demro, fifty-two years old at the time of the hearing, began working for John Deere Waterloo Works in 1959 when he was nineteen years old. During the early months of his employment, Demro worked in the mill room and foundry. He testified it was a noisy area and the employer did not provide hearing protection. Demro was in this department for ten months. He testified his ears started ringing, and they have not quit ringing to this day. He also testified he noticed some hearing loss in his early months of employment. Demro again worked in this same area from March 20, 1961 to July 1, 1963.

After that time, Demro worked in other departments and was provided with hearing protection to wear whenever it was noisy.

Demro also hunted for twenty-five years with a twelve-gauge shotgun and wore no hearing protection. He had a skull fracture and broke bones in his face in 1964 and has noisy equipment in his home.

After working in the foundry, Demro's hearing has deteriorated. An audiogram taken eleven years after he left the foundry showed a binaural hearing loss of 2.1875 percent. Another audiogram taken in August 1983 showed a binaural hearing loss of 20.9375 percent. An audiogram taken in September 1988 showed a loss of 46.25 percent and another audiogram taken in September 1989 showed it had increased to 47.8125 percent even though Demro retired from employment on July 31, 1989.

The only medical evidence was testimony from Dr. Aguiar that Demro's employment caused his hearing loss. The Commissioner rejected this opinion finding it not consistent with Demro's testimony. Aguiar was not told of Demro's use of firearms. The Commissioner found Demro failed to meet his burden.

The focal issue is whether the Commissioner had a basis to discount Aguiar's opinion. A trier of fact may accept or reject an expert's opinion in whole or in part. Sondag v. Ferris Hardware, 220 N.W.2d 903, 907 (Iowa 1974). In assessing whether to accept an expert medical opinion, the fact finder may clearly look at the history of the alleged injury given to the medical personnel. See Bodish v. Fischer, Inc., 257 Iowa 516, 521, 133 N.W.2d 867, 870 (1965). The history Demro gave the doctor did not include: the actual noise levels at which he worked; the fact he wore hearing protection at work; the fact his hearing deteriorated after the foundry work; and the extent

of his shooting a shotgun without hearing protection. The Commissioner was justified in rejecting the opinion of Aguiar. We affirm.

AFFIRMED.