FILED
APR 30 1985
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

DEBORAH DOTSON, Widow of Steven Dotson and as Administrator of the Estate of Steven Dotson, and ADAM DOTSON and KATIE DOTSON Individually and by their Mother and Next Friend, Deborah Dotson,

Petitioners-Appellants,

vs.

MORTON BUILDINGS, INC., INSURANCE COMPANY OF NORTH AMERICA, and ROBERT C. LANDESS, IOWA INDUSTRIAL COMMISSIONER,

Respondents-Appellees.

Filed April 30, 1985

5-104
84-1067

Appeal from the Iowa District Court for Clay County - Charles H. Barlow, Judge.

Petitioner appeals the district court affirmance of the industrial commissioner's decision denying recovery of compensation benefits. AFFIRMED.

Dick H. Montgomery, of Greer, Nelson, Montgomery, Barry & Bovee, Spencer, for petitioners-appellants.

Frank T. Harrison, of Hopkins & Huebner, P.C., Des Moines, for respondents-appellees Morton Buildings, Inc., and Insurance Company of North America.

Heard by Donielson, P.J., and Snell and Sackett, JJ.

Steven Dotson, at the time of his death, was 24 years old, married and the father of two children. He had been employed for several years by Morton Buildings, Inc., in the business of constructing steel frame buildings. On August 12, 1981, Steven began work about 7:00 a.m. The crew was constructing a metal machine shed on a farm. That afternoon the temperature reached 87 degrees and the humidity was approximately 55 percent. Steven's only break was thirty minutes for lunch.

That day Steven was working on the west side of the building and complained of the heat to his co-workers. At approximately 4:10 p.m., that afternoon, Steven walked around the building, stated to another worker that he felt hot and dizzy, and then collapsed. His co-workers, the resident farmer and the farmer's son tried in vain to resusitate Steven. An ambulance transported him to the local hospital, but all efforts to revive him failed.

An autopsy was performed and the findings concluded the cause of death to be acute cardiorespiratory failure.

Decedent's wife filed a claim for death benefits asserting the death arose out of and in the course of decedent's employment. Benefits were denied by the deputy hearing officer and affirmed by the Industrial Commissioner. On appeal, the ruling was also affirmed by the district court.

Appellant contends the proceedings below were based on the error, both as a matter of fact and a matter of law, that decedent's injuries did not arise out of and in the course of his employment.

For a death to be compensable, it must arise out of and occur in the course of employment. Iowa Code §85.3 (1983). The claimant has the burden of proving by a preponderance of the evidence that Steven Dotson's death was in the course of his employment. See Musselman v. Central Telephone Co., 154 N.W.2d 128, 130

(Iowa 1967). Since Steven's death obviously occurred during his employment, the question becomes, "did it arise out of his employment?"

The controversy centered on testimony from the widow's three medical experts and the employer's two medical experts. Autopsy findings summarized cause of death as acute cardiorespiratory failure. Appellant's experts testified Steven collapsed from the heat, his airway was obstructed, and improper resusitation was performed resulting in Steven's death. Thus, his death arose out of his employment. Appellees' experts testified Steven died almost immediately from cardiorespiratory failure of unknown cause which did not arise out of his employment.

Where the events which gave rise to the death are disputed and unresolved, there is a question of fact and ruling as a matter of law would be inappropriate. See Hawk v. Jim Hawk Chevrolet-Buick, Inc., 282 N.W.2d 84, 87 (Iowa 1979). If reasonable minds could differ as to inferences made from the evidence, then the decision of the Commissioner controls. Bahr v. Christenson, 282 N.W.2d 768, 769 (Iowa 1979). We are bound by the Industrial Commissioner's findings if they are supported by substantial evidence. Hawk, 282 N.W.2d at 85. Evidence is substantial when a reasonable mind would accept it as adequate to reach a conclusion. Billingsley v. Iowa Dept. of Job Service, 338 N.W.2d 538, 540 (Iowa App. 1983).

Appellant argues that the evidence supports her theory of the case. That this court might have reached a different opinion based on the evidence is irrelevant. As we explained in Ward v. Iowa Dept. of Transp., 304 N.W.2d 236, 237-38 (Iowa 1981), "[t]he question on judicial review is not whether the evidence might support a different finding but whether the evidence supports the findings the Commissioner actually made." The Commissioner is not compelled to accept the testimony of any expert but does determine the weight to be given that testimony. Musselman, 154 N.W.2d at 132-33.

The Commissioner gave greater weight to appellee's witnesses' testimony and determined Steven's death was from unknown causes and not as a result of his employment. He also determined claimant failed to meet her burden. The findings of the Commissioner are supported by substantial evidence.

AFFIRMED.