IN THE COURT OF APPEALS OF IOWA

No. 7-419 / 96-1712

000067

MARY DUDLEY,

Petitioner-Appellant,

vs.

GRINNELL GENERAL HOSPITAL, and FARM BUREAU,

Respondents-Appellees.

FILED
SEP 24 1997
CLERK SUPREME COURT

Appeal from the Iowa District Court for Polk County, Robert J. Blink, Judge.

Petitioner appeals from the district court's ruling on judicial review affirming the industrial commissioner's decision denying her worker's compensation claim for permanent partial disability benefits. **AFFIRMED.**

Christopher D. Spaulding and Joe Walsh of Hedberg, Ward, Owens & Vanderharr, Des Moines, for appellant.

William D. Scherle of Hanson, McClintock and Riey, Des Moines, for appellees.

Considered by Sackett, P.J., and Streit and Vogel, JJ.

SACKETT, P.J.

Petitioner-appellant Mary Dudley appeals from the district court's ruling affirming an industrial commissioner's decision denying her worker's compensation claim for permanent partial disability benefits. Dudley claims the industrial commissioner erred in determining she had not established her allergies were caused by her employment. She contends (1) the commissioner did not apply the substantial factor test in addressing causation; (2) the commissioner arbitrarily rejected testimony of a medical expert establishing causation; and (3) the commissioner's decision was not supported by substantial evidence. We affirm.

Dudley started working as a presser in the laundry at respondent-appellee Grinnell General Hospital in 1991. The hospital's worker's compensation insurance carrier is respondent-appellee Farm Bureau.

In January 1992, Dudley suffered from angioedema, an allergic skin condition. She claimed the condition was caused when, during her employment, she came in contact with bleach. Dudley had attacks on January 21, February 8, and March 17, 1992. None of the attacks occurred at the laundry. One attack occurred while Dudley cleaned up at a wedding reception. Dudley's physician advised her in March 1992 not to work in the hospital laundry. She has not worked in the hospital laundry since March 17, 1992. She suffered twelve attacks after leaving her work at the hospital.

Dudley admitted she had more contact with chemicals and bleach at home than at work, but she claimed her allergic condition developed while the hospital laundry

was changing bleach and chemicals in automating the laundry. The hospital contended Dudley had limited exposure to bleach working in the hospital laundry. The hospital showed they used Antichlor in the wash rinse cycle to prevent bleach sensitive reaction by patients and any exposure was further reduced by the automation of the laundry and the use of a bleach neutralizer. The commissioner found the majority of Dudley's time at the laundry was spent folding clean laundry in a press machine.

Dudley's treating physicians were of the opinion Dudley was suffering from an allergic reaction to household cleaners or bleach, but had difficulty finding her allergies were related to her work at the hospital. Dudley also consulted Dr. Zuhair K. Ballas, M.D., an allergist and professor in the Department of Internal Medicine at the University of Iowa Hospitals and Clinics.

Dudley filed this worker's compensation claim seeking permanent partial disability benefits. After a hearing, a deputy industrial commissioner entered a decision finding Dudley's allergy was a work-related injury resulting in a forty percent disability to the body as a whole. On appeal, the industrial commissioner reversed the deputy and found Dudley failed to prove her work exposure to bleach was the cause of her condition The commissioner specifically found Dr. Ballas "could not state with certainty whether the exposure to bleach was the cause of her condition." The industrial commissioner further found Dudley "has proved that she

suffered an aggravation of the allergy that arose out of and in the course of her employment on March 17, 1992." The commissioner found she had already received benefits for this aggravation.

Dudley filed a petition for judicial review challenging the commissioner's decision. The district court affirmed finding Dudley failed to meet her burden of proof on the issue of medical causation. The court found the opinions of Dr. Ballas were inconsistent and his last opinion was based on an inaccurate factual history regarding Dudley's exposure to bleach at work.

Dudley first contends the commissioner applied an incorrect standard. The commissioner held:

> Even though Dudley has not proved that her work caused her allergy, she has proved that she suffered an aggravation of the allergy that arose out of and in the course of her employment on March 17, 1992. She was exposed to bleach on that day and shortly thereafter had a reaction to the bleach. She sought medical treatment and the treating doctor took her off work from March 18, 1992 through March 23, 1992. The aggravation of the allergy resulted in Dudley being temporarily totally disabled during this time period. (There is insufficient evidence in the record to find that any of her prior aggravations caused a compensable temporary disability.) Dudley indicated that she was ready, willing and able to work after she was released to return to work in March 1992. She also indicated that she received temporary total disability benefits from May 18 through September 9, 1992. Those weekly payments exceed her entitlement so she shall take no further weekly benefits from this proceeding. Dudley seeks payment of certain medical expenses. Those expenses that are related to her treatment for exposure at work should be paid by Grinnell General Hospital. Those expenses would have ended on or about March 26, 1992 when Dudley's treatment for temporary aggravation would have ceased.

Dudley has the burden to establish "the disability proximately caused by the injury." *Miller v. Lauridsen Foods, Inc.*, 525 N.W.2d 417, 420 (Iowa 1994); *Freeman v. Luppes Transport Co.*, 227 N.W.2d 143, 148 (Iowa 1975); *Poole v. Hallett Constr. Co.*, 261 Iowa 481, 484, 154 N.W.2d 716, 718 (1967). The burden is on Dudley to show that the condition complained of was causally connected to the injury received in the course of employment.

Dudley seems to argue she should recover benefits because she proved she suffered an aggravation of an allergy. What this argument misses is she has recovered from the aggravation and she received temporary benefits for the aggravation. The commissioner applied the correct law. Dudley's position the commissioner erred in use of the causation test is not well taken. We affirm on this issue.

Dudley next contends the commissioner's decision constituted an unwarranted abuse of discretion and was arbitrary and capricious. She contends the commissioner improperly rejected the opinions of three doctors establishing causation.

The industrial commissioner determined Dudley failed to meet her burden of proof regarding causality because "[n]o doctor has expressed a definitive opinion that Dudley's employment was the probable cause of her allergy."

In a November 1992 report, Dr. Ballas stated:

> According to the history I got from Ms. Dudley, I would say that there is a distinct possibility that Ms. Dudley may be allergic to detergents and that this allergy was first manifested while she was working at Grinnell General Hospital. However, I cannot give you an estimate of the probability of this being the case.

In September 1993, Dr. Ballas stated that to the best of his knowledge, "there is no scientific way in which one can discern as to whether her exposure at home was the culprit sensitizer as compared to her exposure at work. . . . There is no scientific way in which one can determine which exposure sensitized Ms. Dudley. Any estimate will be pure guessing."

In February 1994, Dr. Ballas wrote in a letter to Dudley's attorney he could not state with certainty whether exposure to bleach was the cause of Dudley's condition.

The commissioner's decision was not arbitrary and capricious and did not constitute an abuse of discretion.

Dudley last claims the findings are not supported by substantial evidence. We disagree.

We are bound by the commissioner's factual findings if they are supported by substantial evidence. *Riley v. Oscar Mayer Foods Corp.*, 532 N.W.2d 489, 491 (Iowa App 1995). The fact inconsistent conclusions may be drawn from the same evidence does not mean an agency decision lacks substantial support. *Kostelac v. Feldman's, Inc.*, 497 N.W.2d 853, 856 (Iowa 1993). The conclusions the commissioner drew from the medical evidence are valid conclusions.

AFFIRMED.