FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

LEON JESSEN,

Appellant,

vs.

ROBERT C. LANDESS, Iowa Industrial Commissioner; McLAUGHLIN FARMS, Employer; and CONTINENTAL WESTERN, Insurance Carrier,

Appellees.

Filed February 22, 1979

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2-61941

Appeal from Carroll District Court - R. K. Richardson, Judge.

Claimant appeals from the judgment of the trial court upholding the ruling of the industrial commissioner, alleging that the district court excessively limited its scope of review and that substantial evidence did not exist to support the commissioner's decision. - Affirmed.

James R. Van Dyke, of Wunschel Law Firm, Carroll, for Appellant.

R. Ronald Pogge, of Hopkins & Huebner, Des Moines, for Appellees.

Heard by Oxberger, C. J., and Snell, Carter and Johnson, JJ. Donielson, J., takes no part.

PER CURIAM

Claimant Leon Jessen appeals from a decision of the district court upholding the ruling of the industrial commissioner that claimant was not an employee of McLaughlin Farms at the time of his accident. Claimant maintains that, as a matter of law, he was an employee of McLaughlin Farms and that he is eligible for workman's compensation payments from McLaughlin pursuant to § 86.26, The Code 1977. Claimant raises two points on appeal. We affirm the district court on both matters.

I. Claimant initially maintains that the district court failed to respond to the contention in his petition that the industrial commissioner should have found, as a matter of law, that claimant was an employee of McLaughlin Farms at the time of his accident and that, therefore, the district court excessively limited its scope of review pursuant to § 17A.19, The Code 1977, to the question of whether substantial evidence existed in the record to support the commissioner's decision. The district court, in its ruling, stated in part that:

> [the] Court shall reverse an administrative ruling if it is affected by error of law or procedure or if it is unsupported by substantial evidence in the record. It appears that the Industrial Commissioner's ruling was not affected by an error in law procedure and thus the main issue is whether this ruling is supported by substantial evidence. (Emphasis added)

We agree with the respondents in this case that the district court did, indeed, consider whether the industrial commissioner had erred as a matter of law, but that the court's ruling suffered from a typographical omission of the word "or" between the words "law" and "procedure" in the final sentence. In the first sentence above quoted, the court clearly indicates it considered substantive law matters in its statement of its duty to reverse if the administrative ruling is affected by error of law or procedure. Claimant's contention here is without merit.

Furthermore, in reviewing the evidence, we find claimant did not establish his status as an employee of McLaughlin Farms as a matter of law. " * * * We have frequently pointed out that absent an admission by his adversary, it is not often a party having that burden establishes it as a matter of law." Musselman v. Central Telephone Co., 261 Iowa 352, 360, 154 N.W.2d 128, 132 (1967). An issue is resolved as

a matter of law where facts are not in dispute and different inferences could not be reasonably drawn therefrom. McClure v. Union Counties, 188 N.W.2d 283, 284 (Iowa 1971); Musselman, supra, 261 Iowa at 355-56, 154 N.W.2d at 130. While the facts in this case were not in dispute, those facts could not be used to prove conclusively either that claimant was or was not an employee of McLaughlin Farms at the time of his accident. Rather, the issue of employment was one on which reasonable minds could differ. McClure, supra; Musselman, supra.

II. Claimant also maintains that the district court erred in finding that substantial evidence existed in the record to support the industrial commissioner's ruling that the claimant was not an employee of McLaughlin Farms at the time of his accident. The commissioner's decision will be upheld by a reviewing court if substantial evidence exists in the record made before the agency to support that decision. Auxier v. Woodward State Hospital School, 266 N.W.2d 139, 143 (Iowa 1978). Evidence is substantial when reasonable minds would accept it as adequate to reach a conclusion. City of Davenport v. Public Employment Relations Board., 264 N.W.2d 307, 311 (Iowa 1978). A finding may be supported by substantial evidence although another inconsistent conclusion could also be reached from that evidence. City of Davenport, supra. In viewing the record as a whole, we find that substantial evidence existed to support the commissioner's conclusion. The district court did not err in its ruling.

AFFIRMED.