IN THE COURT OF APPEALS OF IOWA

No. 0-323 / 89-1305

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IOWA STATE PENITENTIARY and **STATE OF IOWA,**

Appellants,

vs.

WILLARD DUFFIELD,

Appellee.

Appeal from the Iowa District Court for Polk County, Gene E. Needles, Judge.

The industrial commissioner awarded Duffield workers' compensation benefits for a myocardial infarction which allegedly arose from his employment. Upon judicial review the district court upheld the industrial commissioner's award. The employer has appealed, challenging on several grounds the sufficiency of the evidence to support the award. **AFFIRMED.**

Thomas J. Miller, Attorney General, and Shirley A. Steffe, Assistant Attorney General, for appellant.

James P. Hoffman, Keokuk, for appellee.

Heard by Oxberger, C.J., and Donielson and Hayden, JJ.

DONIELSON, J.

Willard Duffield was an electrician employed by the Iowa State Penitentiary. He complained of chest pains while being questioned by his superiors about staff misconduct at the penitentiary. The interview was terminated and Duffield went home. Later the same day he went to a hospital; that night, while hospitalized, he suffered a myocardial infarction.

Duffield later sought workers' compensation benefits for the disability resulting from his myocardial infarction. The industrial commissioner concluded: (1) that the myocardial infarction was an injury which arose out of and in the course of Duffield's employment; and (2) that Duffield was permanently and totally disabled as a result of the myocardial infarction. Accordingly, the industrial commissioner awarded Duffield substantial workers' compensation benefits.

The State, as employer, challenged the industrial commissioner's agency action by applying for judicial review. The district court upheld the industrial commissioner's action, and the State has appealed.

The State challenges the sufficiency of the evidence to establish: (1) that Duffield's myocardial infarction arose out of or in the course of his employment; (2) that the myocardial infarction was the cause of any disability presently suffered by Duffield; or (3) that Duffield is in fact permanently and totally disabled.

In addition, the State challenges the sufficiency of the evidence to support the agency's finding that Duffield had incurred $42,528.11 in medical expenses as the result of his myocardial infarction. We affirm.

In reviewing a district court decision on the validity of an agency action, we must only decide whether the district court has correctly applied the law. Henry v. Iowa Dep't of Transp., M.V.D., 426 N.W.2d 383, 385 (Iowa 1988). The district court itself acts in an appellate capacity to correct errors of law on the part of the agency. Norland v. Iowa Dep't of Job Serv., 412 N.W.2d 904, 908 (Iowa 1987); Iowa Code § 17A.19(8) (1987). Our review of the district court's decision is limited to the correction of errors at law. Roberts v. Iowa Dep't of Job Serv., 356 N.W.2d 218, 221 (Iowa 1984). We are bound by the agency's fact findings if those findings are supported by substantial evidence. Id.

The State first argues that Duffield's heart attack on May 3, 1984, did not arise out of and in the course of his employment. The State argues that Duffield's medical history is replete with evidence he had suffered angina several times in the past. The State maintains Dr. Santiago relied too heavily on Duffield's statements in determining the causation of his heart attack. The State contends the stress resulting from the investigation should not have aroused an inordinate amount of fear in Duffield since he was never actually under investigation. We disagree.

Iowa courts have long recognized that a claimant with a preexisting heart condition may be permitted, upon a showing of proper medical proof, to recover workers' compensation under several concepts. In Sondag v. Ferris Hardware, 220 N.W.2d 903 (Iowa 1974), the Iowa Supreme Court set forth the legal standard for such cases. In Sondag, the court recognized two situations in which a worker may recover. In the first situation, the work requires heavy exertion which, superimposed on an already defective heart condition, aggravates or accelerates the condition resulting in an injury compensable under workers' compensation law. 220 N.W.2d at 905. A claimant in such a case may collect benefits even though the injury did not occur or arise out of a special incident. Id. However, the Sondag court, citing to 1A Larson's Workmen's Compensation Law section 38.83, p. 7-172, stated that "when the employee contributes some personal element of risk - e.g., by having . . . a personal disease - we have seen that the employment must contribute something substantial to increase the risk." 220 N.W.2d at 905. Thus, the exertion contributed by the work place must be greater than that of nonemployment life. Id.

Under the second situation, medical testimony corroborates that the unusually strenuous employment exertion, imposed upon a preexisting diseased heart, resulted in a heart injury. 220 N.W.2d at 905-06. See also Gwjan v. Swift & Co., 229 Iowa 625, 295 N.W. 185

(1940) (court upheld award of workers' compensation based on medical expert's testimony that exertion caused by factory emergency resulted in decedent having a heart attack). The determination of the weight of the evidence is for the commissioner, and his findings have the effect of a jury verdict. Ward v. Iowa Dep't of Transp., 304 N.W.2d 236, 237 (Iowa 1981). The acceptance or rejection of the medical expert's testimony is within the peculiar province of the commissioner, and if a conflict exists between the expert witnesses, the commissioner's findings must be upheld unless the expert must be disbelieved as a matter of law. Varied Enterprises v. Sumner, 353 N.W.2d 407, 410 (Iowa 1984).

We believe it is this second situation which applies to the present case. The commissioner found, and we agree, that Duffield was the type of personality who would be threatened by the investigative procedures used by the prison system. Duffield was aware that several other employees who had been similarly called in for investigation had been terminated from their employment. We also agree with the commissioner that the staging of the questioning induced Duffield to have fear for his economic well-being. While it is true, as the State claims, that the questioning only lasted a few minutes over a small number of meetings, those persons conducting the investigation gave no indication that Duffield was not under investigation, even though the prison investigatory

officials knew that Duffield was not. We are also convinced that Duffield clearly believed that he was a subject of investigation and that his job was in jeopardy. Duffield's fear in fact seems to have been somewhat encouraged by the investigator's office. We agree that the procedures used for the investigation were formal and stressful.

We additionally find that the commissioner did not err in relying on the testimony of Dr. Santiago. Dr. Santiago rendered an opinion that the stressful incidents at work had aggravated Duffield's previous heart condition. Dr. Santiago based part of the diagnosis on the timing of Duffield's heart attack. Duffield testified that almost as soon as he entered the investigation room on May 3, 1984, he began feeling ill, and noticed his blood pressure had gone up dramatically. As the interrogation began, Duffield began to experience chest pains, and appeared pale, at which point the interrogation stopped. Later that day, while resting at home, Duffield's chest pains became worse. Duffield was ultimately admitted to the hospital, where several hours after his arrival he suffered a heart attack.

The record also revels that Duffield had already had some history of heart problems. Duffield had already undergone bypass surgery in 1980. There was a letter written by a University of Iowa Hospital's physician to Dr. Santiago indicating that Duffield had a return of his

angina. According to Dr. Santiago, however, he observed no problems with angina prior to May 3, 1984, and testified that Duffield performed his work duties with no apparent problem prior to that date. Duffield testified he was a poor historian, and that the University of Iowa records may not be accurate.

We conclude the commissioner's findings of fact are supported by substantial evidence, and we therefore decline to disturb it on appeal. The stress emanating from the investigation procedure was certainly not stress as found generally in nonemployment life situations, and thus aggravated Duffield's existing heart condition. We do not believe, as does the State, that our holding will unleash a pandora's box inviting hundreds of employees to pursue workers' compensation claims simply because the employees suffered stress on the job. Each case must be judged on the particular facts of the case.

We also believe the commissioner's finding that Duffield is totally disabled is supported by substantial evidence. Industrial disability means reduced earning capacity. Guyton v. Irving Jensen Co., 373 N.W.2d 101, 103 (Iowa 1985). However, bodily impairment is only one factor in gauging industrial disability. Id. Other factors to be considered include the worker's age, intelligence, education, qualifications, experience, and the effect of the injury on the worker's ability to obtain suitable employment. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181,

192 (Iowa 1980). When a combination of any of these factors precludes the worker from obtaining regular employment, a worker with only a partial functional disability has a total industrial disability. Id. See also Doerfer Division of CCA v. Nicol, 359 N.W.2d 428, 438 (Iowa 1984).

The record reveals that Duffield was fifty-nine years of age at the time of his heart attack. He has a high school education, and one year of trade school. Duffield has worked mostly manual and physical occupations throughout most of his employment career. From 1977 to 1984 he worked as an electrical and refrigeration engineer. Duffield and his wife both testified after the heart attack in May 1984 Duffield could no longer carry groceries or firewood, walk long distances, climb a ladder, run a vacuum cleaner, hoe in the garden, or rake the yard. Dr. Santiago testified that after a bypass was performed in June 1984, Duffield improved slightly at first, but then gradually worsened to the point where even mere nervousness would trigger chest pains. Dr. Rypma, a clinical psychologist who examined Duffield, testified Duffield is a dependent personality who becomes easily attached to others and worries about the possibility of being rejected.

From these facts, we believe the commissioner could find that due to Duffield's physical condition Duffield was totally disabled. Though there was some question as to whether Duffield could perform other work, we conclude that

Duffield's age, limited education, and specialization as an electrical engineer, combined with his disability, would make him a poor candidate to obtain employment. We therefore affirm the commissioner's finding that Duffield is totally disabled.

The State lastly contends the $42,528.11 in medical expenses incurred by Duffield were not incurred as a result of the May 3, 1984 heart attack. The State maintains that even if the medical bills incurred from May 3, 1984 to May 15, 1984, were compensable due to a work related injury, there was no causal connection with any bills incurred after May 15, 1984.

Under Iowa law, the claimant for medical expenses has the burden of demonstrating that the expenses were related to the May 3, 1984 injury. Auxier v. Woodward State Hosp.-Sch., 266 N.W.2d 139, 144 (Iowa 1978). The claimant, however, is entitled to recover the expenses in treating whatever aggravation of a preexisting condition was caused by a work related injury. Id. Such an award may be based on expert testimony. Id.

We find the commissioner could find from the record that Duffield's medical expenses were causally connected to the May 3, 1984 incident. Dr. Ehrenhoft, the surgeon who performed the June 1984 bypass, testified that the surgery was necessary to relieve the angina that could not be controlled by medication alone. And, as we have already noted, there is substantial evidence to support the

commissioner's conclusion that the heart attack was caused by work related stress. The commissioner found no credible evidence to show Duffield had been treated for angina prior to May 3, 1984. We therefore affirm the commissioner's finding that Duffield's medical expenses are compensable.

AFFIRMED.