IN THE COURT OF APPEALS OF IOWA

No. 6-323 / 95-1257

FILED
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CLERK SUPREME COURT

SHARON RIGGS,
Appellant,

vs.

VENTURE, Self-Insured,
Appellee.

Appeal from the Iowa District Court for Polk County, Ray A. Fenton, Judge.

Sharon Riggs appeals the district court ruling affirming the deputy industrial commissioner's decision that she had incurred a five-percent industrial disability as a result of a work-related back injury. **AFFIRMED.**

Thomas J. Reilly of Thomas J. Reilly Law Firm, P.C., Des Moines, for appellant.

Timothy W. Wegman of Peddicord, Wharton, Thune & Spencer, P.C., Des Moines, for appellee.

Considered by Sackett, C.J., Streit, J., and Perkins, S.J.*

*Senior judge from the Fifth Judicial District serving on this court by order of the Iowa Supreme Court.

PERKINS, S.J.

Sharon Riggs began working for Venture in 1991 as a full-time checker/marker earning $5.80 per hour. Riggs, age forty, is married and has two children. Riggs worked at Venture until August 3, 1992, when she injured her back after she tripped on some plastic and fell to the floor.

Riggs was examined by Drs. Wall and Sciorrotta. They ordered Riggs to attend physical therapy for a diagnosed contusion of the lumbar spine. From August 1992 to November 1992, Riggs saw numerous doctors and specialists. The doctors encouraged Riggs to return to work, but each time Riggs left work after only a few hours complaining of severe pain. On June 15, 1993, Dr. Todd Troll ordered EMGs of Rigg's upper and lower extremities. Based on his objective findings, Dr. Troll recommended that Riggs return to work. He also diagnosed she had suffered a five-percent industrial disability to the body as a whole.

On April 28, 1993, Riggs filed a petition for arbitration before the Iowa industrial commissioner for workers' compensation benefits. The deputy industrial commissioner entered her ruling, finding that Riggs had suffered a permanent injury of five percent. The deputy industrial commissioner noted Venture indicated it was willing to accommodate Riggs by giving her a new position with lighter duties. The commissioner also noted Riggs had opted to return to school at Des Moines Area Community College to study computers and business machines. The commissioner

opined Riggs voluntarily chose not to return to work at Venture. Riggs was awarded twenty-five weeks of permanent partial disability benefits at $167.13 per week.

The industrial commissioner affirmed the deputy's ruling. Riggs subsequently filed a petition for judicial review. The district court affirmed the deputy's findings. Riggs has appealed.

Riggs maintains her injury has prevented her from returning to work in the area of employment for which she is trained. She claims the district court ignored the fact no medical care provider has released her to return to work. She also notes her treating physicians recommended she find other employment.

I. Scope of Review. Judicial review of worker compensation cases is at law and not de novo. *Mortimer v. Fruehauf Corp.*, 502 N.W.2d 12, 14 (Iowa 1993). This reviewing standard applies to both the initial review in the district court, as well as the subsequent review by the appellate courts. *Id.* It limits judicial interference with a decision of the industrial commissioner to the correction of errors at law. *See Dowell v. Wagler*, 509 N.W.2d 134, 136 (Iowa App. 1993).

The standard of review prescribed for worker compensation cases recognizes that it is the role of the industrial commissioner, not the court, to weigh the evidence. *Holmes v. Bruce Motor Freight, Inc.*, 215 N.W.2d 296, 298 (Iowa 1974). Courts are required to give deference to the fact finding role of the agency and must broadly and liberally construe its finding of fact to uphold, not defeat, the decision. *Id.* It is the

same respect accorded a jury verdict. *Paveglio v. Firestone Tire & Rubber Co.*, 167 N.W.2d 636, 640 (Iowa 1969).

Review at law means courts are bound by the findings of fact if supported by substantial evidence in the record as a whole. *See Suluki v. Employment Appeal Bd.*, 503 N.W.2d 402, 404 (Iowa 1993). Evidence is substantial if reasonable minds would find it adequate to reach a given conclusion. *Kostelac v. Feldman's, Inc.*, 497 N.W.2d 853, 856 (Iowa 1993). Substantial evidence is not absent simply because it is possible to draw different conclusions from the same evidence. *Id.* The focus of the judicial inquiry is whether the evidence is sufficient to support the decision made, not whether it is sufficient to support the decision not made. *Coghlan v. Quinn Wire & Iron Works*, 164 N.W.2d 848, 852 (Iowa 1969). A reviewing court may interfere with the agency's findings only if the evidence is uncontradicted and reasonable minds could not draw different inferences. *Langford v. Kellar Excavating & Grading, Inc.*, 191 N.W.2d 667, 668 (Iowa 1971). Legal error is present under the substantial evidence analysis when an agency reaches a conclusion based on uncontroverted evidence which is contrary to the conclusion reasonable minds would reach. If evidence is in conflict, however, the reviewing court has no room to interfere. *Kostelac*, 497 N.W.2d at 856.

II. Determination of Disability. Both the agency and the district court gave consideration to the testimony of Dr. Todd Troll. Only Dr. Troll gave petitioner a permanent disability rating. He fixed that disability rating at five percent. He further

testified that it was his opinion that petitioner should be able to perform the job the employer had created for her after the injury.

We affirm the trial court. The decision of the industrial commissioner is supported by substantial evidence.

AFFIRMED.