

IN THE COURT OF APPEALS OF IOWA

FILED

AUG 26 1987

CLERK SUPREME COURT

JOAN A. BALDWIN,

Petitioner-Appellant,

vs.

UNITED CARE CENTERS, INC.,
d/b/a **EMMETSBURG CARE CENTER**
and **WESTERN INSURANCE COMPANIES,**

Respondents-Appellees.

Filed August 26, 1987

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7-274
86-1383

Appeal from the Iowa District Court for Buena Vista County (Cause No. 22302), J. H. Andreason, Judge.

The petitioner appeals from the district court's affirmance of the Iowa Industrial Commissioner's decision denying her workers' compensation benefits due to her alleged failure to prove that her injuries arose out of and in the course of her employment. **AFFIRMED.**

David A. Scott of Cornwall, Avery, Bjornstad & Scott, Spencer, for petitioner-appellant.

Richard J. Barry of Greer, Nelson, Bertell, Montgomery, Barry & Bovee, Spencer, for respondents-appellees.

Considered by Oxberger, C.J., and Snell and Hayden, JJ.

PER CURIAM

Appellant Joan Baldwin appeals from the district court's affirmance of the Industrial Commissioner's decision denying her workers' compensation benefits. Appellant argues the Commissioner erred in (1) allegedly basing its decision upon her failure to prove an exact date of injury rather than treating the date listed in her petition as an approximation; and (2) rejecting allegedly uncontradicted medical testimony because it was based upon medical history supplied by her. We affirm.

The principles governing our review of administrative decisions are set forth in Taylor v. Iowa Department of Job Service, 362 N.W.2d 534, 537 (Iowa 1985). Our scope of review is at law, not de novo, and we are limited to the record made before the agency. Id.; Green v. Iowa Department of Job Service, 299 N.W.2d 651, 655 (Iowa 1980). Our task is to review the district court's decision and to determine whether the court correctly applied the law. Infante v. Iowa Department of Job Service, 364 N.W.2d 262, 264 (Iowa App. 1984). We adhere to the principle that "[w]here the facts are disputed, we will adopt the determinations made by the [department] as long as they are supported by substantial evidence in the whole record." Budding v. Iowa Department of Job Service, 337 N.W.2d 219, 221 (Iowa App. 1983). Evidence is substantial if a reasonable person would find it adequate to reach a given conclusion. Messina v. Iowa Department of Job Service, 341 N.W.2d 52, 59 (Iowa 1983).

Appellant claims she injured her lower back at work while lifting a patient. She was unsure of the date of injury and claims she informed her supervisor of the incident. The Commissioner found that the date appellant claims she was injured, the appellant was not scheduled to work. Her supervisor and coworkers do not recall the incident. The appellant did not seek treatment for the injury for approximately three weeks, although she saw a doctor on three prior occasions

and did not mention the back pain. Her employer has disputed her claims and stresses the inconsistencies in her behavior and story.

Extensive medical evidence was presented, and the hearing officer found that the appellant had been injured and awarded both healing period and permanent partial disability benefits. On appeal, the deputy industrial commissioner reversed the hearing officer's decision, concluding there were several inconsistencies in her story, and that she failed to prove her claim by a preponderance of the evidence. The deputy commissioner specifically found that appellant failed to inform anyone of the injury, and that she did not make any "back complaints of an orthopedic nature until February 1981," although the injury took place in November, 1979. This decision was affirmed by the district court.

The facts of this case are disputed, and we are not free to reject the Commissioner's findings simply because reasonable minds might disagree about inferences drawn from the evidence. Ward v. Iowa Department of Transportation, 304 N.W.2d 236, 239 (Iowa 1981). The credibility of witnesses and the weight of evidence, even uncontroverted expert evidence, is for the Commissioner to decide, and the fact that the conclusion drawn by the Commissioner is different from other possible conclusions does not mean it is unsupported by substantial evidence. Rockwell Graphic Systems, Inc. v. Prince, 366 N.W.2d 187, 192 (Iowa 1985).

After a thorough review of the entire record, we find the deputy commissioner took into account the entire record in reaching a decision, and that the decision was supported by substantial evidence. We conclude the district court did not commit an error in affirming the Industrial Commission's decision.

AFFIRMED.