IN THE COURT OF APPEALS OF IOWA

No. 1999-482 (9-739) / 98-2278
Filed March 29, 2000

NANCY JACOBSON,
Petitioner-Appellant,

vs.

CRESTVIEW ACRES NURSING HOME, Employer, and IOWA LONG-TERM CARE RISK MANAGEMENT ASSOCIATION, Insurance Carrier,
Respondent-Appellees.

FILED
MAR 29 2000
CLERK SUPREME COURT

Appeal from the Iowa District Court for Linn County, August F. Honsell, Judge.

Nancy Jacobson appeals from the district court's ruling on judicial review, affirming the Workers' Compensation Commissioner's denial of workers' compensation benefits. **AFFIRMED.**

Thomas M. Wertz of Wertz Law Firm, P.C., Cedar Rapids, for appellant.

Michael Mock of Bradshaw, Fowler, Proctor & Fairgrave, P.C., Des Moines, for appellees.

Considered by Huitink, P.J., and Streit and Miller, JJ.

PER CURIAM

Nancy Jacobson appeals from the district court's ruling on judicial review affirming the Workers' Compensation Commissioner's denial of workers' compensation benefits. She claims the commissioner's decision was unreasonable and constituted an abuse of discretion. We affirm.

Jacobson was employed as a cook at Crestview Acres Nursing Home. On August 26, 1993, she burned her left arm. Her last day of work was September 6, 1993. In February 1994 she had surgery to repair a tear to the right rotator cuff. Jacobson filed a claim for workers' compensation benefits, claiming the rotator cuff injury was the result of heavy lifting with her right arm in the seven to ten days she worked after she burned her left arm.

At the administrative hearing Jacobson exaggerated the amount of lifting she did with just her right arm after August 26, 1993. She claimed a cumulative injury until about two years after she left work, when in a deposition she mentioned a specific incident where she was lifting a box of potatoes and felt a sharp pain in her right arm. Jacobson's medical records show she gave several different dates for when she began to have shoulder pain.

Jacobson testified she did not assist her husband in his upholstery business after she injured her arm. The employer presented a medical report from October 3, 1994, which stated:

> Patient for the past several months has had significant problems with fatigue. In talking with her further, apparently she gets up at 5:30 a.m. and makes breakfast and then works on upholstery from 8:00 a.m. until 5:00 p.m.

Jacobson's physician, Dr. David Hart, gave the opinion her rotator cuff injury was related to her employment. Dr. Hart's opinion was based on Jacobson's exaggerated claims regarding the amount of lifting required by her job. Two physicians, Dr. Scott Neff and Dr. Martin Rosenfeld, gave the opinion one or two weeks of one-armed activity would be insufficient to cause a rotator cuff tear.

The administrative deputy who heard the evidence determined Jacobson was not credible. The deputy found the expert medical opinions of Dr. Neff and Dr. Rosenfeld were more persuasive than that of Dr. Hart. The deputy concluded Jacobson had not shown her injury arose out of or in the course of her employment. After reviewing the evidence, the Workers' Compensation Commissioner arrived at the same conclusion and determined Jacobson was not entitled to benefits. On judicial review, the district court affirmed the decision of the commissioner.

An agency's decision cannot be unreasonable or involve an abuse of discretion. *Myers v. F.C.A. Serv., Inc.*, 592 N.W.2d 354, 356 (Iowa 1999). An abuse of discretion is synonymous with unreasonableness. *Dico, Inc. v. Iowa Employment Appeal Bd.*, 576 N.W.2d 352, 355 (Iowa 1998). Unreasonableness is defined as action in the face of evidence that leaves "no room for difference of opinion among reasonable minds, or not based on substantial evidence." *Stephenson v. Furnas Elec. Co.*, 522 N.W.2d 828, 831 (Iowa 1994). Thus, we review to determine if the agency's decision was supported by substantial evidence.

We find there was substantial evidence in the record to support the decision of the commissioner that Jacobson's injury was not caused by her employment. Jacobson's testimony was not credible. Two physicians gave the opinion one or two weeks of one-armed activity would be insufficient to cause a rotator cuff tear. The commissioner could rely on the opinions of these experts, even though no curriculum vitae was entered into evidence for either. Jacobson did not object to the admission of their reports, and the absence of any such detailed evidence concerning their qualifications goes only to the weight to be given to their reports, a matter to be determined by the agency as fact-finder.

We affirm the decision of the district court and the Workers' Compensation Commissioner.

AFFIRMED.