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IN THE COURT OF APPEALS OF IOWA

No. 3-252 / 92-1157

CRAIG D. REMSBURG,

Appellant,

vs.

AMERICAN NATIONAL CAN CORP., and **GALLAGHER BASSETT SERVICES, INC.,**

Appellees.

Appeal from the Iowa District Court for Polk County, Ross A. Walters, Judge.

The petitioner appeals the district court's ruling on judicial review affirming the industrial commissioner's decision refusing to award permanent disability. **AFFIRMED.**

William D. Scherle of Hansen, McClintock & Riley, Des Moines, for appellant.

E. J. Kelly and M. Anne McAtee of Hopkins & Huebner, P.C., Des Moines, for appellees.

Heard by Donielson, P.J., and Sackett and Habhab, JJ.

PER CURIAM

Craig Remsburg was employed as a press helper in the press department of American National Can Corporation for six and one-half years. His job included cleaning press rollers, filling tanks with solvents, and cleaning wash tanks. On November 5, 1987, Remsburg was overcome by solvent chemicals while cleaning a part washer in the press department.

Between November 5, 1987, and December 3, 1987, Dr. Smith conducted extensive medical tests on Remsburg. These tests included repeated blood tests, a pulmonary function test, an EKG, a chest x-ray, and a treadmill test. As a result of this evaluation, Dr. Smith concluded Remsburg's medical work-up was "unremarkable." Remsburg returned to work on December 3, 1987. After approximately one week on the job, Remsburg complained of "vague subjective findings" which prevented his continued employment with the company. Dr. Smith was unable to verify his complaints with any objective findings.

Following Dr. Smith's evaluation, Remsburg was referred to a toxicologist, Dr. Thoman. Dr. Thoman saw Remsburg about fourteen times from December 1987. Dr. Thoman believed the toxic exposure from the November 5, 1987, incident caused the symptoms which Remsburg was experiencing, such as headaches, respiratory irritation, gastrointestinal problems, and weight loss. He therefore concluded the incident would affect Remsburg's earning

capacity over his lifetime and that Remsburg had suffered a permanent disability of twenty-five percent, plus or minus five percent.

Remsburg was also examined by a pulmonary disease specialist, Dr. Hicklin. Dr. Hicklin concluded Remsburg was not medically impaired or limited in any way and he could return to work. Dr. Hicklin referred Remsburg to a clinical psychologist, Dr. Hines, for further evaluation. Dr. Hines reported Remsburg suffered from depression, anxiety, and a sense of alienation. After a psychological evaluation, Dr. Hines concluded Remsburg's physical symptoms could have been caused or aggravated by Remsburg's "emotional turmoil" or by elements of secondary gain. He gave no opinion causally relating Remsburg's psychological condition to the November 5, 1987, incident.

Remsburg filed a claim with the industrial commissioner seeking workers' compensation benefits. In January 1991, the deputy industrial commissioner found Remsburg was not injured on November 5, 1987, and that his condition was therefore not causally related to that incident. In October 1991, the industrial commissioner determined Remsburg was entitled to temporary total disability benefits for the period between November 5, 1987, and December 3, 1987. However, the commissioner found Remsburg had failed to establish the work-related injury caused any permanent disability.

Remsburg then sought judicial review with the district court. In June 1992, the district court determined there was substantial evidence in the record that Remsburg had not suffered a permanent disability causally related to the chemical exposure incident. The district court reversed that portion of the industrial commissioner's decision which denied future medical care for the work-related injury. Remsburg now appeals.

The scope of review in cases arising out of the Iowa Administrative Procedures Act is limited to the corrections of errors at law. Foods, Inc. v. Iowa Civil Rights Comm'n, 318 N.W.2d 162, 165 (Iowa 1982). A district court decision rendered in an appellate capacity is reviewed to determine whether the district court correctly applied the law. Id. To make that determination this court applies the standards of Iowa Code section 17A.19(8) (1991) to the agency action to determine whether our conclusions are the same as the district court's. Jackson County Pub. Hosp. v. Public Employment Relations Bd., 280 N.W.2d 426, 429-30 (Iowa 1979). The scope of review encompasses a review of the entire record and is not limited to the agency's findings. Higgins v. Iowa Dep't of Job Serv., 350 N.W.2d 187, 191 (Iowa 1984).

Iowa Code section 17A.19(8)(f) provides in a contested case the court shall grant relief from an agency decision which is unsupported by substantial evidence made before the agency when that record is viewed as a whole. Eaton v.

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Iowa Dep't of Job Serv., 376 N.W.2d 915, 916-17 (Iowa App. 1985). Evidence is substantial to support an agency's decision when a reasonable person would find it adequate to reach a conclusion. Id. at 917. The question is not whether the evidence might support a different finding but whether the evidence supports the findings actually made. Henry v. Iowa Dep't of Job Serv., 391 N.W.2d 731, 734 (Iowa App. 1986). The fact that two inconsistent conclusions can be drawn from the evidence does not mean that one of those conclusions is unsupported by substantial evidence. Id.

Remsburg claims the industrial commissioner's decision was not supported by substantial evidence. Remsburg substantially relied on the testimony of Dr. Thoman, who concluded Remsburg had suffered about a twenty-five percent permanent disability. He claims Dr. Thoman's testimony should be given more weight because of Dr. Thoman's extensive knowledge of the chemicals to which Remsburg was exposed and the fact he had seen Remsburg with more frequency than had the other experts.

On the other hand, American Can relied upon reports from Dr. Hicklin, Dr. Smith, and Dr. Hines. Dr. Hicklin concluded, based on a series of tests, that Remsburg was a "basically healthy young man." He believed Remsburg's anxiety about his perceived condition, and not the November 5, 1987, incident, caused his problems with headache and stomach pain. Dr. Smith similarly agreed there was no connection between the incident and his

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symptomatic complaints. Finally, Dr. Hines made no connection between the November 5, 1987, incident and Remsburg's psychological problems.

Dr. Thoman's testimony directly contradicted the findings of Dr. Hicklin, Dr. Smith, and Dr. Hines. Dr. Thoman established a causal connection between the November 5, 1987, incident and Remsburg's condition. The other doctors did not. On our review, we agree with the reasoning of the district court:

> [T]he court cannot substitute its view of the facts for those of the Industrial Commissioner. A review of the evidence reveals the permanency issue was the subject of disputed medical testimony from which reasonable minds could draw different inferences. The Court is thus compelled to conclude that substantial evidence supports the finding that Petitioner failed to prove permanent disability arising out of the injury of November 5, 1987.

The findings of Dr. Hicklin, Dr. Smith, and Dr. Hines indicate there is no causal connection between this incident and Remsburg's condition. We conclude the industrial commissioner's finding that Remsburg suffered no permanent disability and the district court's affirmance of that finding were both supported by substantial evidence.

Remsburg also contends the district court erred as a matter of law in failing to award industrial disability. Specifically, Remsburg argues even if he suffered no permanent functional disability, he has suffered a loss of earning capacity and therefore is entitled to a finding of industrial disability.

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Prior to the November 5, 1987, incident, Remsburg was earning over $12 per hour. A transfer following the incident resulted in a pay reduction to $10.50 per hour. We agree Remsburg has suffered some loss of earning capacity since November 5, 1987. However, there is substantial evidence in the record that there is no causal connection between the November 5, 1987, incident and this loss of earning capacity. Therefore, Remsburg is not entitled to a finding of industrial disability.

The costs of this appeal are taxed to Remsburg.

For the reasons stated, we affirm the judgment of the district court.

AFFIRMED.