IN THE COURT OF APPEALS OF IOWA

No. 1999-24 (9-134) / 98-1238
Filed September 29, 1999

BOONE'S BOOK AND BIBLE STORE and AMERICAN FAMILY INSURANCE GROUP,
Appellees,

vs.

DAN COPELAND,
Appellant.

FILED
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CLERK SUPREME COURT

Appeal from the Iowa District Court for Polk County, D. J. Stovall, Judge.

Respondent appeals the district court's ruling on judicial review reversing an award of workers' compensation benefits to respondent by the industrial commissioner. **AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.**

John P. Dougherty of Lawyer, Dougherty & Palmer, P.L.C., West Des Moines, for appellant.

Coreen K. Bezdicek of Patterson, Lorentzen, Duffield, Timmons, Irish, Becker & Ordway, L.L.P., Des Moines, for appellees.

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

STREIT, J.

Dan Copeland appeals from the district court's dismissal of his workers' compensation claim. Although the injury date averred in the pleading was in error and not supported by substantial evidence, remanding the case back to the industrial commissioner best meets the liberal objectives of the workers' compensation statute.

I. Background Facts & Proceedings.

Dan Copeland began working at Boone's Book and Bible Store (Boone's) in 1950 and worked there until 1993 when the business was sold. Sometime in the first week of May 1993 Copeland was carrying a box of books up a flight of stairs at Boone's when he lost his balance on the stairs, fell into the wall, and the box penetrated his right side. Copeland did not seek medical treatment for the injury and continued working his normal hours until approximately July 4, 1993, when he felt pain in his stomach. Copeland underwent surgery to remove a mass blocking his duodenal canal and was hospitalized for approximately a month. The doctor performing the procedure acknowledged that the mass was likely due to Copeland's fall.

On May 23, 1995, Copeland filed an original notice and petition before the industrial commissioner seeking medical benefits for a June 4, 1993, injury. The June 4 injury date pled in the petition appeared to be a scrivener's error. A deputy industrial commissioner awarded Copeland temporary total disability benefits in addition to his medical expenses. The deputy commissioner made the following

findings: (1) the injury occurred the first week of May 1993; (2) the injury date, based on the flawed petition, was June 4, 1993; and (3) Copeland was eligible for temporary benefits beginning July 5, 1993. The industrial commissioner affirmed the decision. Boone's sought judicial review, and Copeland cross-petitioned for judicial review seeking permanent disability benefits.

Reversing the industrial commissioner's decision, the district court noted that although Copeland's petition alleged a June 4 injury, the facts demonstrated Copeland was injured sometime during the first week of May. Because there was no evidence demonstrating an injury occurred on June 4, the district court reversed the industrial commissioner's decision for lack of substantial evidence in the record. Copeland appeals.

II. Standard of Review.

Judicial review of the actions of an administrative agency is governed by the standards of Iowa Code section 17A.19(8). *Robbennolt v. Snap-On Tools Corp.*, 555 N.W.2d 229, 233 (Iowa 1996). The court acts in an appellate capacity by reviewing the agency's decision solely to correct any errors of law. *Id.* The agency's decision is final if it is supported by substantial evidence and is correct in its conclusions of law. *Id.* The possibility of drawing two inconsistent conclusions from the same evidence does not prevent the agency's decision from being supported by substantial evidence. *Id.* The findings of the industrial commissioner are akin to a jury verdict, and we broadly apply them to uphold the commissioner's decision. *Second Injury*

Fund v. Shank, 516 N.W.2d 808, 812 (Iowa 1984). "We have a duty to correct the district court's errors of law as well." *Beier Glass Co. v. Brundige*, 329 N.W.2d 280, 282 (Iowa 1983).

III. Substantial Evidence Does Not Support a June 4, 1993, Injury Date.

Of the three possible dates of injury,[1] June 4, 1993, as alleged by the petition, is obviously incorrect. Copeland's deposition, his hearing testimony, the deputy commissioner's findings of fact, and the commissioner's appeal decision all concur that Copeland's stumble occurred during the first week of May 1993. Therefore, the district court correctly concluded that no identifiable injury occurred on June 4, 1993. The appropriate remedy for such error, however, merits further review.

IV. Remanding the Case Back to the Industrial Commissioner Is the Proper Remedy.

Iowa Code section 17A.19(8) empowers the court to "reverse, modify, or grant any other appropriate relief from the agency action, equitable or legal." The district court elected to employ reversal from the array of tools permitted in section 17A.19(8). The intent of the workers' compensation statute, however, suggests a more lenient remedy may have been appropriate.

Providing for an injured worker and that worker's dependents is the overarching goal of the workers' compensation statute. *McSpadden v. Big Ben Coal Co.*, 288 N.W.2d 181, 188 (Iowa 1980). "Thus the statute is to be interpreted liberally

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[1] The possible dates of the injury include: (1) the first week of May 1993, when Copeland first slipped; (2) June 4, 1993, as alleged by the petition; and (3) July 4, 1993, when Copeland's duodenal canal was blocked and surgery became necessary.

with a view toward that objective." *Caterpillar Tractor Co. v. Shook*, 313 N.W.2d 503, 506 (Iowa 1981). Given the liberal construction of the workers' compensation statute, "an application for arbitration is not a formal pleading and is not to be judged by the technical rules of pleading." *Yeager v. Firestone Tire & Rubber Co.*, 112 N.W.2d 299, 301 (Iowa 1961); *see also Hayes v. Louisiana Long Leaf Lumber Co.*, 51 So.2d 855, 858 (La. Ct. App. 1951) (ruling that an error regarding date of injury should not disqualify an injured worker from receiving compensation if the goals of the workers' compensation statute are met). Thus, dismissing the case for what appears to be a scrivener's error does not seem to comport with the liberal construction of the workers' compensation statute. A more equitable remedy would be to remand this case back to the industrial commissioner for a finding that is supported by substantial evidence. Copeland did suffer an injury during the course of his employment and to deny him or his dependents compensation for this injury due to a mistake in the pleading would frustrate the purpose of the workers' compensation statute. Remanding the case also allows both parties to present their statute of limitations claims to the trier of fact rather than this appellate court. If the industrial commissioner determines the injury occurred during the first week of May 1993, Copeland's claim may be barred by the two-year statute of limitations. If the industrial commissioner finds, under a discovery theory, that the injury did not occur

until the first week of July 1993, the petition may have tolled the statue of limitations and should proceed.[2]

We affirm the district court's finding that substantial evidence did not support a June 4, 1993, injury date. We overturn, however, the district court's reversal of the industrial commissioner. The case is remanded back to the industrial commissioner for a finding of an injury date that is supported by substantial evidence and to address the parties' statute of limitations claims. We do not retain jurisdiction.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.

[2] This court takes no side as to the merit of either claim. The issue is best determined by the trier of fact given the fact-specific nature of the claim.