IN THE COURT OF APPEALS OF IOWA

No. 4-448 / 94-14

FILED
DEC 14 1994
CLERK SUPREME COURT

WINFRED COOP,

Claimant-Appellant,

vs.

JOHN DEERE DES MOINES WORKS, Employer, and Self-Insured,

Defendant-Appellee.

Appeal from the Iowa District Court for Polk County, Glen E. Pille, Judge.

Winfred Coop appeals a district court judgment affirming the industrial commissioner's denial of workers' compensation benefits. **AFFIRMED.**

Gregory T. Racette of Hopkins & Huebner, P.C., Des Moines, for appellant.

Roger L. Ferris and Joseph A. Quinn of Nyemaster, Goode, McLaughlin, Voigts, West, Hansell & O'Brien, P.C., Des Moines, for appellee.

Heard by Donielson, C.J., and Hayden and Cady, JJ.

DONIELSON, C.J.

Winfred Coop appeals from the industrial commissioner's finding that he failed to establish his exposure at work to oil mist caused or aggravated his asthma. We have reviewed the parties' arguments and the record and affirm the industrial commissioner's decision.

Coop contends he was exposed to oil mist and other irritants while working as a gear cutter at John Deere between February 9, 1987 and May 22, 1987. He asserts this exposure aggravated his preexisting asthmatic condition and he has sustained an industrial disability as a result. Following the filing of his first petition for judicial review, the district court remanded the case to the commissioner for clarification of the basis for denial of benefits. The district court was concerned about the absence of references in the commissioner's decision to medical opinions contrary to Coop's position. On remand the commissioner complied and again denied Coop his application for workers' compensation benefits. Coop sought judicial review and the district court affirmed the commissioner's decision.

Coop claims the commissioner's decision was not supported by substantial evidence and was unreasonable, arbitrary, capricious, and characterized by an abuse or unwarranted exercise of discretion. He also argues the commissioner improperly minimized the weight to be given to his medical experts and misinterpreted medical testimony.

Coop requests, based on the length of time this case has been in the appeal process, this court find he has proven an aggravation of his asthmatic condition and remand the case to the commissioner for a determination of the amount of his industrial disability.

Our review is for correction of errors at law, not de novo, and the findings of the industrial commissioner have the effect of a jury verdict. Kostelac v. Feldman's Inc., 497 N.W.2d 853, 856 (Iowa 1993). At issue is whether the commissioner's decision is supported by substantial evidence in the record made before the agency. Evidence is substantial if a reasonable mind would accept it as adequate to reach a conclusion. Id. The possibility of drawing inconsistent conclusions from the same evidence does not mean an agency's decision lacks substantial support. Id. In the case of conflict in the evidence we are not free to interfere with the commissioner's findings. Id.

It is well-established the aggravation of a preexisting condition by a work-related injury is compensable. Department of Transp. v. Van Cannon, 459 N.W.2d 900, 904 (Iowa App. 1990). "[I]n determining whether an injury or disease has a direct causal connection with the employment, or arose independently thereof, it is essentially within the domain of expert testimony, and the weight to be given such an opinion if for the finder of the facts." Id.

Contrary to Coop's experts, Deere's medical expert, Dr. Gots, concluded Coop's exposure to the oil mist had not caused or aggravated his asthma. It was not disputed Coop had a preexisting asthmatic condition. A number of nonoccupational factors, including allergies and exposure to hot and cool temperatures, triggered his asthma. The medical records reveal treatment of Coop's hypertension was the reason he left work in May 1987. It was only after he had been off work that concerns about his asthmatic condition became more significant and warranted a referral for additional treatment. His asthmatic condition worsened when he was off work in the summer of 1987 and was not being exposed to the oil mist.

While Coop's medical experts support his theory of causation and injury, the acceptance or rejection of expert testimony in workers' compensation cases is within the peculiar province of the industrial commissioner. Morrison v. Century Engineering, 434 N.W.2d 874, 877 (Iowa 1989). We cannot agree with Coop's assertion that Dr. Gots' opinion was based on incorrect factual assumptions and must be disregarded. Contrary to Coop's contentions, there was evidence NIOSH did not require the use of a respirator when exposed to oil mist. There was also evidence Coop's asthmatic condition did not improve and actually got worse when he was off work after May 1987.

Coop puts considerable emphasis on the fact Dr. Gots did not believe he had increased respiratory problems

during the time he worked as a gear cutter. Coop's evidence in this regard was not particularly strong nor convincing. The industrial commissioner could take that into consideration in deciding what weight to give each of the expert opinions. We cannot find the commissioner improperly minimized the weight to be given Coop's experts.

The question on judicial review is not whether the evidence might support a different finding but whether the evidence supports the findings the commissioner actually made. Ward v. Iowa Dept. of Transp., 304 N.W.2d 236, 237-38 (Iowa 1981). The industrial commissioner, not the court, weighs the evidence, and the court is to broadly and liberally construes the industrial commissioner's findings to uphold rather than defeat his decision. Department of Transp. v. Van Cannon, 459 N.W.2d 900, 903 (Iowa App. 1990). Were this de novo review we may have reached a decision favorable to Coops. However, our review is limited to a determination of whether substantial evidence supports the commissioner's decision. We conclude there is. We also conclude the commissioner's decision was neither unreasonable, arbitrary, or capricious an abuse of its exercise of discretion.

AFFIRMED.