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IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

No. 6-709 / 95-2035

LARRY CLATT,
Appellant,

vs.

SAUER-SUNDSTRAND and **LIBERTY MUTUAL INSURANCE,**
Appellees.

Appeal from the Iowa District Court for Polk County, Robert J. Blink,Judge.

The petitioner appeals the district court's ruling on judicial review affirming the industrial commissioner's decision denying him disability benefits. **AFFIRMED.**

Steven C. Jayne, Des Moines, for appellant.

Patrick Smith and Joseph Cortese, Des Moines, for appellees.

Heard by Sackett, P.J., Vogel, J., and Schlegel, S.J.*

*Senior judge from the Iowa Court of Appeals serving by order of the Iowa Supreme Court.

VOGEL, J.

Larry Clatt appeals the district court's ruling on judicial review affirming the Industrial Commissioner's decision denying him disability benefits. He claims that the district court erred in affirming the Commissioner's decision that his occupational asthma was not a significant factor in causing him disability and that there was no proximate cause between his depression and his employment with the respondent, Sauer-Sundstrand. We affirm.

Scope of review. Our review of cases under the Iowa Administrative Procedures Act, Iowa Code section 17A, are at law. *UNI-United Faculty v. PERB*, 545 N.W.2d 274, 278 (Iowa 1996). We are bound like the district court by the final agency's fact-findings if those findings are supported by substantial evidence; evidence is substantial if a reasonable person would find it adequate for reaching a decision. *Fairfield Toyota, Inc. v. Bruegge*, 449 N.W.2d 395, 397 (Iowa App. 1989) (citing *People's Memorial Hosp. v. Iowa Civil Rights Comm'n*, 322 N.W.2d 87, 91 (Iowa 1982)).

I. Disability ruling. Clatt argues the district court erred in upholding the Commissioner's ruling that his occupational asthma was not a significant factor in producing disability.

In August 1991, the petitioner, Larry Clatt, resigned his position as a senior engineering technician with the respondent, Sauer-Sundstrand, pursuant to its work reduction plan. Clatt claims that his occupational asthma developed while working

for Sauer-Sundstrand, affected his job performance, and resulted in critical performance reviews prompting him to believe that he would be subject to involuntary layoff if he did not voluntarily resign under the company's program.

After his resignation with Sauer-Sundstrand, Clatt claims he continued to experience sleep and irritability problems connected with his asthma. He was employed in three positions similar to his position with Sauer-Sundstrand but was unable to retain those positions.

In a 1991 arbitration decision, Clatt was determined to have occupational asthma but only received medical benefits and not disability benefits. Clatt subsequently filed a review-reopening petition regarding the arbitration decision asserting that his condition had changed after the termination of his employment with Sauer-Sundstrand. He also filed an arbitration petition alleging injury to his respiratory system and alleging the time of his termination was the date of the disability. After an arbitration hearing, a deputy industrial commissioner denied Clatt additional workers' compensation benefits. The deputy commissioner concluded that Clatt did not establish he was disabled as a result of his occupational asthma. Particularly, the commissioner concluded that the asthma did not cause Clatt to leave his employment with Sauer-Sundstrand and that it did not render him unable to perform his work as a machinist with other employers.

Clatt subsequently filed a timely petition for judicial review challenging the industrial commissioner's decision. After a hearing, the district court entered a

decision affirming the industrial commissioner's decision denying Clatt workers' compensation benefits for disability. The district court did order a remand back to the Commissioner on the issue on whether medical services were provided for Clatt's asthma problems. The court concluded that there was substantial evidence supporting the decision that Clatt's occupational asthma was not a significant factor causing him disability.

We find there is substantial evidence in the record to support the district court's determination Clatt's occupational asthma was not a significant factor in producing his disability. The Commissioner found, and the district court affirmed that "The evidence introduced does not show [Clatt's] asthmatic condition to have become disabling. Regardless of whether the date of August 29, 1991 or February 6, 1989 is applied, [Clatt] has not shown that he is disabled as a result of his occupational asthma."

Moreover, Clatt testified he felt he was working full-time satisfactorily up to the time of downsizing at the company and his resignation. His supervisor, Dan Dyvig, testified there were no problems with Clatt's technical job performance, although his performance review was somewhat lower than the other machinist, but Clatt had problems with interpersonal skills with other employees and supervisors. Regarding his health, Clatt also testified if he had not volunteered to be laid off, he would have remained at Sauer-Sundstrand to work indefinitely. After he quit his job, he searched for other employment as a machinist as he felt he was physically able to

work and had the training and experience necessary to perform in this capacity. Three short-term jobs followed. Clatt did experience difficulties breathing at his last job in Denver, and returned to Iowa to work, without any disabilities as he drove a tractor and was a desk clerk.

Expert testimony and medical evidence further substantiates that Clatt was not incapacitated from performing his work. Dr. From related in his deposition that Clatt should be able to "do most anything [physically] . . . [h]is capacity was 93 percent of predicted normal . . . [which is] excellent." Dr. From concluded he did not feel Clatt had been incapacitated from performing his work as a machinist based upon the respiratory system.

The record is bereft of evidence indicating Clatt suffered a disabling condition precluding him from work. We accordingly find Clatt's claim must fail; we affirm the Commissioner and the district court's findings that Clatt's occupational asthma was not a significant factor in producing his "disability."

II. Causal connection ruling. Clatt also argues the district court erred in upholding the Commissioner's ruling that he failed to establish a causal connection between his depression and his employment with Sauer-Sundstrand.

Our supreme court has held the burden is on the claimant to prove the causal connection must be more than a possibility, but must necessarily be a probability. *See Sondag v. Ferris Hardware*, 220 N.W.2d 903, 905 (Iowa 1974). Clatt need not prove his employment was the sole proximate cause of his depression, but rather, he need

only prove the existence of a substantial relationship between the disability and his employment. *Blacksmith v. All American, Inc.*, 290 N.W.2d 348, 354 (Iowa 1980); *Langford v. Keller Excavating & Grading*, 191 N.W.2d 667, 669 (Iowa 1971).

In 1992, Clatt was treated for depression and has taken medication for his asthma and his depression. Clatt claimed that lay and medical evidence established that his occupational asthma and depression caused disability for which he should receive workers' compensation benefits. Sauer-Sundstrand claimed that examining psychiatrist, Dr. Dodd determined that there was no causal connection between his depression and his asthma, work conditions at Sauer-Sundstrand, or his termination of employment. Dr. Taylor felt there was no causal relationship between the Sauer-Sundstrand job and Clatt's depression.

The Deputy Commissioner concluded that the record failed to establish a sufficient connection between Clatt's depression and his employment with Sauer-Sundstrand. The Deputy concluded that his depression probably resulted from unidentified factors and Clatt's susceptibility. On Clatt's appeal, the Commissioner further determined that there was substantial evidence supporting the conclusion that Clatt had failed to establish a causal connection between his depression and his employment with Sauer-Sundstrand:

> [Clatt's] depressive symptoms were present for a considerable amount of time before the events leading to the resignation occurred. [Clatt's] depression could possibly have some basis in his employment stresses, but the evidence simply fails to show any such connection to be a probability . . . . [I]t is quite possible that some of [Clatt's] difficulties

> in his employment . . . were a result of an ongoing, but unrecognized depression which continued to exist and progress after the employment relationship terminated.

We agree. It does appear that Clatt's depressive disorder could have been an ongoing result of multiple contributing factors. We are unwilling to make the causal connection between Clatt's depression and his employment at Sauer-Sundstrand as it is not supported by substantial evidence. We accordingly affirm on this issue.

Having carefully considered all issues before us, we affirm the findings of the Commissioner and the district court.

AFFIRMED.