FILED
FEB 25 1987
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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WALTER H. SAATHOFF,	)	
Petitioner-Appellant,	)	Filed February 25, 1987
vs.	)	
FARMLAND FOODS, INC., and AETNA CASUALTY AND SURETY COMPANY,	)	6-530 86-456
Respondents-Appellees.	)	

Appeal from the Iowa District Court for Crawford County (27744) - Richard F. Branco, Judge.

Petitioner appeals the district court's affirmance of the industrial commissioner's determination that petitioner's work-related injury in March 1980 resulted only in impairment to his legs and not to his body as a whole. **AFFIRMED.**

Warren L. Busch of the Bush Law Office, Wall Lake, Iowa, for petitioner-appellant.

Charles T. Patterson of Eidsmoe, Heidman, Redmond, Fredregill, Patterson & Schatz, Sioux City, Iowa, for respondents-appellees.

Heard by Donielson, P.J., Snell, and Schlegel, JJ.

Petitioner appeals the district court's affirmance of the industrial commissioner's determination that petitioner's work-related injury in March 1980 resulted only in impairment to his legs and not to his body as a whole. We affirm.

The petitioner, Walter H. Saathoff, began working for the respondent-employer, Farmland Foods, Inc., in August 1960. In 1970 Saathoff was involved in a work-related, compensable automobile accident which resulted in a 75% disability to his right leg. Following the accident, Saathoff underwent a total replacement of his right hip. The prosthesis later had to be surgically replaced. After each surgery Saathoff returned to work.

In March 1980 Saathoff was involved in a second work-related automobile accident. This accident resulted in injuries to both legs. Saathoff was paid medical expenses, healing period benefits, and permanent partial disability benefits for a 10% impairment to his left leg, and an additional 10% impairment to his right leg, which increased the total disability of that extremity to 85%. Saathoff retired from his job at Farmland's request. Although he began a new job as an agricultural teacher, he was unable to continue due to severe back spasms.

Saathoff then sought additional disability benefits, claiming the back spasms and other physical restrictions resulted from his March 1980 injury. No claim was made concerning additional benefits resulting from the 1970 accident. After a review-reopening hearing, a deputy industrial commissioner found that Saathoff's March 1980 injury resulted in impairment to both lower extremities, but did not result in impairment to his body as a whole. The deputy therefore denied his request. On appeal, the industrial commissioner affirmed the deputy's decision denying Saathoff any additional benefits.

On judicial review, the district court concluded that the determination that Saathoff's injury was limited to scheduled body part was supported by sub-

stantial evidence. The court also found there was substantial evidence to indicate that the cause of Saathoff's back problems was unknown. Accordingly, the district court affirmed the decision of the commissioner denying total permanent disability benefits, after ruling that evidence of industrial disability was not relevant.

The standard of review which we employ in cases governed by the Iowa Administrative Procedure Act is limited by Iowa Code section 17A.20 to the correction of errors at law. Caylor v. Employers Mutual Casualty Co., 337 N.W.2d 890, 893 (Iowa Ct. App. 1983). We review the district court's decision on appeal from the commissioner's determination for errors of law and reapply the standards embodied in section 17A.19(8) in order to determine whether our conclusions are the same as those of the district court. Doerfer Division of CCA v. Nicol, 359 N.W.2d 428, 432 (Iowa 1984). If the facts are in dispute, we will adopt the findings made by the industrial commissioner if they are supported by substantial record evidence. Caylor, 337 N.W.2d at 893. Moreover, the commissioner's findings are accorded the same weight as a jury verdict and are applied broadly and liberally to uphold rather than to defeat the commissioner's decision. Armstrong v. State of Iowa Buildings and Grounds, 382 N.W.2d 161, 165 (Iowa 1986); Nicol, 359 N.W.2d at 432.

I.

Petitioner first contends that the district court erred in sustaining the industrial commissioner's findings since there was not substantial evidence in the record to support the conclusion that the injury was limited to the extremities and hence was a scheduled injury. Petitioner asserts that the evidence supported a finding that his injuries extend beyond his legs and that he is totally disabled.

In Caylor v. Employers Mutual Casualty Co., 337 N.W.2d 890, 893 (Iowa Ct. App. 1983), we explained at length the difference between a scheduled injury

and a further finding of disability. In short, if the claimant's impairment is limited to a scheduled member, the amount of compensation is fixed by statute according to the loss of the use of that member. Id.; see also Dailey v. Pooley Lumber Co., 233 Iowa 758, 760, 10 N.W.2d 569, 571 (1943). If, however, the extent of the injury exceeds the specific member, the claimant is said to have suffered a nonscheduled injury, and his compensation is based upon the percentage of industrial loss. See Barton v. Nevada Poultry Co., 253 Iowa 285, 292, 110 N.W.2d 660, 664 (1961); see also Hedberg and Vonderhaar, An Overview of the Iowa Workers' Compensation Act, 30 Drake L. Rev. 809, 827-28 (1980-81).

The claimant bears the burden of showing that although the specific injury is limited to a particular member, "there resulted an ailment extending beyond the scheduled loss. . . ." Kellogg v. Shute and Lewis Coal Co., 256 Iowa 1257, 1262, 130 N.W.2d 667, 669 (1964). This is a question of fact determined from the record. Id.

In the instant case, the record evidence supports the conclusion that claimant's injury is limited to the scheduled loss. A review of all the medical evidence presented to the fact finder clearly supports the conclusion that the 1980 accident caused nothing more than a scheduled injury. Claimant's exclusive reliance on Dailey v. Pooley Lumber Co., 233 Iowa 758, 10 N.W.2d 569 (1943), to support his case is not persuasive. In Dailey there was evidence presented that the initial injury did in fact cause a shortening of the leg, which in turn resulted in a tilting of the pelvis and curvature of the spine. Id. at 571. On the basis of this evidence, the court found that the claimant's initial injury resulted in a nonscheduled permanent ailment and that he was entitled to non-scheduled permanent disability benefits. Id. at 573-74. In the present case, the inconclusive evidence presented by claimant through Dr. Cochran was not sufficient to carry claimant's burden of proving that his injuries resulted in

disability beyond the scheduled loss. See Kellogg v. Shute, 130 N.W.2d at 669. The medical evidence presented to the industrial commissioner simply does not support claimant's argument that there was not substantial evidence to support the commissioner's findings. As the deputy commissioner summarized:

> Claimant's first mention of low back pain occurred on September 28, 1981, more than a year post accident. Dr. Cochran, who observed degenerative changes in claimant's back was unsure whether or not claimant had actual muscle spasm. On claimant's last visit in June of 1982 he complained of right groin pain. Dr. Cochran testified that a shoelift can lead to back trouble and that injury to the hip would aggravate the condition of claimant's back. Claimant had a shoelift well before 1980 and he had no injury to his hip in the 1980 accident. The surgeon viewed claimant's x-ray changes as more degenerative in nature rather than traumatic.
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> Dr. Thomas examined claimant in mid-1982 for social security purposes. He found limitation on back motion and positive straight leg raising. The doctor made no causal connection.
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> Dr. Gross who examined claimant and whose examination was not entirely satisfactory to claimant recorded complaints of pain in the right leg with spasms originating in the right upper thigh and radiating up and down the leg. Claimant denied both back pain and back injury. A CT scan showed degenerative and arthritic changes in the lumbar spine. Peroneal difficulties were observed. Dr. Gross found no evidence of injury resulting in trauma to the back.
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> Dr. Cochran attributes a ten percent increase in the impairment of claimant's right lower extremity to his auto accident. He also related the ten percent impairment of claimant's left lower extremity to the accident. No additional percentage of disability was assigned for the condition of claimant's back. Claimant's burden is a preponderance of the evidence. Claimant has failed to establish by a preponderance of the evidence that his impairment extends beyond his lower extremities.

We conclude there was substantial evidence in the record to support the district court's affirmation of the industrial commissioner's decision.

II.

Petitioner claims that he is entitled to total permanent disability benefits under Iowa Code sections 85.34(2)(s) and 85.34(3) (1985). We disagree. Permanent partial disabilities are classified as either scheduled or unscheduled and functional and industrial methods of determination are used with the appropriate classification. Simbro v. DeLong's Sportswear, 332 N.W.2d 886, 887 (Iowa 1983). When a workers' compensation benefit is for a scheduled injury, the degree of impairment must be computed on the basis of a functional, rather than an industrial disability. Id. Evidence of industrial disability is admissible only when the employee suffered a total or nonscheduled disability. Id. The district court affirmed the industrial commissioner's finding that claimant suffered a scheduled injury and that he was not permanently and totally disabled. Therefore, we agree with the district court that the industrial commissioner correctly denied disability benefits under section 85.34(3) (relating to permanent total disability) and that the commissioner properly found that impairment in cases under section 85.34(2)(s) is a scheduled disability; hence, evidence relevant to an industrial disability was not admissible in this case.

AFFIRMED.