

**IN THE COURT OF APPEALS OF IOWA**

No. 7-244 / 96-1263

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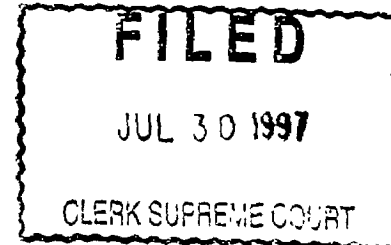
**DIANE WADDY LOCKETT,**

Petitioner-Appellant,

vs.

**VOCATIONAL REHABILITATION, Employer,  
and STATE OF IOWA, Insurance Carrier,**

Respondents-Appellees.



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Appeal from the Iowa District Court for Polk County, Donna L. Paulsen,  
Judge.

Petitioner appeals from the district court order affirming the industrial  
commissioner's denial of review-reopening benefits. **AFFIRMED.**

Robert A. Wright, Jr. of Wright and Wright, Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Joanne Moeller, Assistant Attorney  
General, for appellees.

Considered by Cady, P.J., Vogel, J., and Hayden, S.J.\*

\*Senior judge from the Iowa Court of Appeals serving on this court by order  
of the Iowa Supreme Court.

**HAYDEN, S.J.**

On February 15, 1988, Diane sustained a mild head injury when she fell at work. She and her employer, the Division of Vocational Rehabilitation (DVR), agreed benefits were recoverable but disputed the nature and extent of her disability. A deputy industrial commissioner conducted an arbitration hearing on February 24, 1992. On September 15, 1992, the deputy awarded healing period and permanent partial disability benefits.

The deputy commissioner found Diane's injury caused her to have headaches. Because of the headaches, she lost a lot of time from work. The deputy noted Diane's current income level was voluntary because her only work restriction limited her to half days at her job at DVR, but did not prevent full-time employment elsewhere. The deputy also relied on Diane's education, work history, and her transferable skills in awarding her permanent partial disability.

On December 4, 1992, Diane filed a review-reopening petition claiming her condition had worsened since the arbitration hearing. A deputy commissioner held a hearing on May 18, 1994, and denied her petition. The deputy ruled Diane had not shown any substantial change in her circumstances caused by the injury that was not reasonably anticipated at the time of the arbitration hearing. The Industrial Commissioner affirmed the deputy.

Diane filed a petition for judicial review. The Polk County District Court affirmed the Industrial Commissioner. The court determined the deputy's opinion

was somewhat brief but did not require reversal. She also noted Lockett failed to file a rule 179(b) motion to bring any alleged deficiencies in the findings to the court's attention. The court concluded there was sufficient evidence supporting the agency's finding Lockett voluntarily quit her employment. Also, the district court determined Lockett quit because she was unhappy with her position and there was unfavorable testimony about her at the arbitration hearing. In addition, the court found she never returned to her employment after March 10. The district court held there was substantial evidence to support the agency's finding there had been no substantial change in Lockett's condition. Lockett appeals. We affirm.

We review an agency's decision for errors of law. *Terwilliger v. Snap-On Tools Corp.*, 529 N.W.2d 267, 271 (Iowa 1995). Our review is limited to determining whether the district court correctly applied the law. *Miedema v. Dial Corp.*, 551 N.W.2d 309, 310 (Iowa 1996). In making this determination, we apply the standards of Iowa Code section 17A.19(8) to determine whether our conclusions are the same as the district court. *Glowacki v. State of Iowa Bd.*, 516 N.W.2d 881, 884 (Iowa 1994).

Because chapter 17A delegates fact finding to administrative agencies, we defer to an agency's findings of fact if supported by substantial evidence. *Id.* Evidence is substantial if a reasonable mind would accept it as adequate to reach the agency's conclusion. *Terwilliger*, 529 N.W.2d at 271. Substantial evidence is not

lacking merely because we could draw inconsistent conclusions from the same evidence. *Id.*

Diane argues the deputy commissioner did not discuss the evidence he relied on in sufficient detail. The Administrative Procedure Act provides, "Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings." Iowa Code § 17A.16(1) (1995). Even if a decision does not technically meet this requirement, it is adequate if it is " 'sufficiently certain to enable a reviewing court to ascertain with reasonable certainty the factual basis and legal principle upon which the administrative body acted.' " *Dickinson County v. City Dev. Comm.*, 521 N.W.2d 466, 468 (Iowa 1994) (quoting *Brekke v. Iowa State Bd.*, 449 N.W.2d 345, 346-67 (Iowa 1989)).

We determine the review-reopening decision adequately reveals the factual basis and legal conclusions upon which the deputy commissioner acted, and is sufficient for our review. The decision found Diane voluntarily left her employment at DVR and had a period of unemployment. The decision discussed her later employment at DMACC, and her recall from lay off to positions with the Department of Human Services and DVR. Diane was under-employed at the time of the arbitration hearing and left in the hope of obtaining long-term disability benefits. The deputy commissioner found no consensus among the medical testimony Diane's condition had changed appreciably. He found her condition was virtually identical to

her condition at the time of the arbitration hearing. The deputy also found sustained employment with DVR did not affect the amount of her award.

Diane argues substantial evidence does not support the finding she voluntarily left her employment at DVR. We disagree. Diane presented evidence her headaches increased in frequency and her job became more stressful. Other evidence shows she voluntarily left her employment. The deputy commissioner at the review-reopening hearing heard evidence Diane became upset after hearing supervisors testify at the arbitration hearing about her in a way she thought was dishonest. Evidence showed Diane wanted to transfer to a different position or have her job duties modified. On March 10, 1992, Diane discussed her interest in applying for long-term disability with a personnel supervisor. She then cleaned out her desk and left. By April 23, more than a month later, Diane had not returned. This evidence is substantial and supports the deputy commissioner's finding Diane voluntarily left her employment.

We also hold substantial evidence supports the review-reopening decision. Dr. McMordie testified Diane's condition was exacerbated following the arbitration hearing. He saw her one time between the arbitration hearing and April of 1993. Dr. McMordie performed no tests during the visit but he did talk with her. His analysis relies on symptoms that were before the deputy commissioner in the arbitration hearing. Diane's vocational rehabilitation counselor also relied on symptoms and evidence that were before the deputy commissioner at the arbitration hearing. Diane continued to apply for ambitious positions and for a period of time worked a full-time

and a part-time job simultaneously. Evidence showed her job duties did not change at DVR and she was not reprimanded following the arbitration hearing. We determine there is substantial evidence to support the agency's decision. We affirm the district court.

Costs on appeal are taxed to Diane.

**AFFIRMED.**