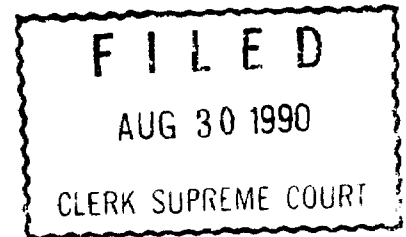


IN THE COURT OF APPEALS OF IOWA

No. 0-240 / 89-1138



ALLEN SLATER,

Appellant,

vs.

JOHN MORRELL & COMPANY,

Appellee.

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Appeal from the Iowa District Court for Polk County,
Joel D. Novak, Judge.

Petitioner appeals the decision of the district court
denying him workers' compensation benefits. **AFFIRMED.**

Joseph L. Fitzgibbons of Fitzgibbons Brothers,
Estherville, for appellant.

Dick H. Montgomery of Greer, Montgomery, Barry & Bovee,
Spencer, for appellee.

Heard by Schlegel, P.J., and Hayden and Sackett, JJ.,
but decided by Schlegel, P.J., and Donielson and Hayden,
JJ. Sackett, J., takes no part.

HAYDEN, J.

Petitioner Allen Slater was employed by respondent John Morrell & Company as a hog splitter. He began to receive treatment for back pain in 1973. On November 10, 1983, Slater was injured when he was struck by a hog carcass weighing approximately 250 pounds. He was knocked to the floor from his work platform, which was twelve to sixteen inches off the floor. After a few minutes, Slater returned to his work station and another carcass fell on him. Slater received medical treatment for back pain resulting from this injury. John Morrell paid healing period benefits for this period of time. Slater was released to return to work in July 1984 with lifting restrictions. He worked for a few days, but then quit because he felt he could not do the job.

Slater filed a claim for additional workers' compensation benefits. He also filed an application for alternate care seeking to have John Morrell pay for surgery, called a Gill procedure, recommended by Dr. Paul Arnesen. A deputy industrial commissioner denied Slater's claims on the ground that he did not sufficiently show his medical condition after July 1984 was caused by the November 1983 injury. Slater appealed, and the Iowa industrial commissioner affirmed the deputy. On judicial review, the district court upheld the Commissioner.

Slater appeals. He contends the Commissioner's finding there was no causal connection between the November 1983

injury and his later condition is not supported by substantial evidence in the record. He alleges he had a preexisting condition which was aggravated by the injury. He points out he was able to perform his job without any weight restrictions prior to the injury.

Slater claims he is entitled to additional healing period benefits because he had not reached maximum healing and could not return to work at his regular job. He contends John Morrell did not offer him a light duty job.

Slater also claims he is entitled to permanent partial disability benefits. Dr. Arnesen testified Slater had a twenty-five percent impairment to the body as a whole. Slater states considering his age, education, training, and job history, his industrial disability is substantial.

Finally, Slater argues he is entitled to medical benefits and alternate care. John Morrell's designated doctor did not recommend surgery. Slater consulted with Dr. Arnesen, a spinal specialist, who recommended a back fusion, or Gill procedure. Slater states because John Morrell denied liability, it may no longer direct his medical treatment. He asks that John Morrell be ordered to pay for his past and future medical care by Dr. Arnesen. We affirm.

Our scope of review of decisions of the Iowa Industrial Commissioner has been clearly set out by the supreme court:

A review of the industrial commissioner's decision is governed by Iowa Code Section 17A.19. . . . The scope of review is not de novo. . . . The commissioner's findings have the effect of a jury

verdict. . . . Those findings are applied broadly and liberally to uphold rather than defeat the commissioner's decision; they are binding on appeal unless a contrary result is demanded as a matter of law. The above rules are applicable in the district court review. We review the district court's appeal decision for errors of law. In this pursuit we reapply the section 17A.19(8) standards to the agency action to determine whether our conclusions are the same as those of the district court. The question on judicial review is not whether the evidence might support a different finding but whether evidence supports findings the commissioner actually made. The substantial evidence test is applied to the entire record; evidence is substantial if a reasonable mind would accept it as adequate to reach a conclusion. (Citations omitted.)

Armstrong v. State of Iowa Buildings and Grounds, 382 N.W.2d 161, 165-6 (Iowa 1986).

Slater argues the industrial commissioner's finding there was no causal connection between Slater's disability and the November 10, 1983, incident was in error. He maintains this finding is unsupported by substantial evidence in the record. We are not persuaded by Slater's argument.

There is ample evidence in the record to support the conclusion of the industrial commissioner and the trial court. Dr. Morrey, of the Mayo Clinic, has been Slater's primary treating physician since 1973, when Slater first sought treatment for back problems. Dr. Morrey testified Slater's condition had not changed significantly since 1981, when he was seen at the Mayo Clinic for back problems associated with riding a horse and having to repeatedly turn and look over his shoulder. Dr. Morrey testified he

was not able to state within a reasonable degree of medical certainty that any of Slater's permanent, partial impairment was attributed to the 1983 work injury. Dr. From, who performed an independent medical examination, was also unable to say any of Slater's disability was directly related to the work injury.

The only doctor who testified Slater's injury was the result of the November 1983 incident was Dr. Arnesen, who was not told of Slater's prior history of back problems. He had not reviewed the Mayo Clinic records covering claimant's ten-year history of back problems.

The record is replete with evidence of Slater's lack of credibility. Slater told Dr. Arnesen he had neither experienced any back problems prior to the work accident nor been treated by any other physicians or chiropractors. He told Dr. From the same thing. He does not appear to be motivated to return to a suitable form of work.

In light of this conclusion, it is not necessary for this court to consider additional weekly benefits for permanent disability. Slater is not entitled to additional temporary total disability benefits. Dr. Morrey testified Slater was able to return to work as early as May 15, 1984. He received temporary total disability benefits through July 30, 1984. Slater has been fully compensated for all temporary total disability payments.

Because there is lack of credible evidence of a causal connection between the work injury and Dr. Arnesen's

treatment, Slater is not entitled to further medical benefits for the previous treatment or future treatment as alternate care.

AFFIRMED.