IN THE COURT OF APPEALS OF IOWA

No. 1999-513 (9-770) / 99-667
Filed October 25, 2000

LEE PRENTICE, d/b/a LEE PRENTICE TRUCKING, Employer, and THE HARTFORD, Insurance Carrier,
Petitioners-Appellees,

vs.

VERN A. PRENTICE,
Respondent-Appellant.

FILED
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CLERK SUPREME COURT

Appeal from the Iowa District Court for Polk County, Scott D. Rosenberg, Judge.

Vern A. Prentice appeals the district court's decision reversing the workers' compensation commissioner's decision, denying the claim for benefits, and finding that he did not meet his burden of proving that the injuries arose out of and in the course of his employment. **REVERSED.**

Jon K. Swanson of Gaudineer & Comito, L.L.P., West Des Moines, and David F. Staudt, Waterloo, for appellant.

Jane V. Lorentzen and Marci B.H. Tooman of Hopkins & Huebner, P.C., Des Moines, for appellee.

Considered by Mahan, P.J., and Zimmer and Vaitheswaran, JJ.

ZIMMER, J.

Vern A. Prentice appeals the district court's decision on judicial review, which reversed the industrial commissioner's decision and denied his claim for benefits. He claims his injuries arose while he was on a dual purpose trip, and he was traveling to what he reasonably believed was an intervening business destination. We reverse.

Background. At the time of his injury, Prentice was a fifty-year-old man with a long history in the trucking business. He was working with his brother's trucking company and much of the business communication took place through his cellular phone, which the company provided, and his pager.

Prentice had been in Waterloo working on a project but he had a medical appointment in Des Moines the next day at 8:00 a.m. so he left Waterloo early in the morning. He claims that his trip was both personal and for business because he planned to deliver some brake shoes and load tickets and to pick up an air conditioning coil for one of the trucks. He also planned to meet with his brother, Lee, while in Des Moines to discuss business.

On his way to Des Moines, Prentice received a page and went into a ditch while attempting to dial the number shown on his pager on his cell phone. Prentice was not injured and his vehicle was undamaged. His car was towed from the ditch. Prentice decided to skip the doctor's appointment because he was dirty and sweaty after clearing weeds from in front of his car in the ditch and he had two more messages on his pager from the same number. Prentice headed to Colfax because he had received information the number on his pager was from that area. On a closed portion of Interstate 80 between Colfax and

Newton, the vehicle Prentice was driving struck the back of a parked pickup at a speed of approximately sixty miles per hour. He sustained injuries as a result of this accident.

Agency and district court proceedings. Prentice filed a workers' compensation claim. The deputy industrial commissioner found that Prentice failed to sustain the burden of proving that his injuries arose out of and in the course of his employment. The commissioner reversed the deputy commissioner's decision, finding Prentice's perception that the trip to Colfax "was in furtherance of his employer's interests was reasonable under the circumstances" and awarded benefits. The employer and its insurance carrier appealed to the district court which reversed the commissioner's decision. Prentice appeals.

Appellate claims. Prentice claims he was injured while on a dual purpose trip. He planned to do some errands for work while he was on the trip to Des Moines for a CAT scan. *See Crees v. Sheldahl Tel. Co.*, 258 Iowa 292, 300, 139 N.W.2d 190, 195 (1965). In the alternative, he argues his employer provided him with the cell phone to work, and he was attempting to discover who paged him and left two messages when he was injured in the accident. *See Larson's Workers' Compensation Law*, Chap. 17, p. 17-1 (1999) ("a business detour retains its character throughout the detour.").

Scope of review. The district court reviews agency actions under Iowa Code section 17A.19(8)(f), which provides that a court may grant appropriate relief from agency action when that action is "unsupported by substantial evidence in the record made before the agency when that record is viewed as a

whole." Iowa Code § 17A.19(8)(f). The agency's findings of fact are binding on the courts if supported by substantial evidence. *Norland v. Iowa Dep't of Job Serv.*, 412 N.W.2d 904, 913 (Iowa 1987). Courts broadly and liberally apply those findings to uphold rather than to defeat the agency's decision. *Ward v. Iowa Dep't of Transp.*, 304 N.W.2d 236, 237 (Iowa 1981). "'Evidence is not insubstantial merely because it would have supported contrary inferences. It is substantial when a reasonable mind could accept it as adequate to reach the same findings.'" *Norland*, 412 N.W.2d at 913 (quoting *New Homestead v. Iowa Dep't of Job Serv.*, 322 N.W.2d 269, 270 (Iowa 1982)). The determining factor is not whether the evidence supports a different finding but whether the evidence supports the finding actually made. *IBP, Inc. v. Al-Gharib*, 604 N.W.2d 621, 632 (Iowa 2000).

When we review a decision of a district court rendered pursuant to section 17A.19, we apply the standards of section 17A.19(8) to the agency action to determine whether our conclusions are the same as those of the district court. *Sierra v. Employment Appeal Bd.*, 508 N.W.2d 719, 720 (Iowa 1993).

Discussion. To receive workers' compensation benefits, a claimant must show by a preponderance of the evidence that the injury arose out of and in the course of the claimant's employment. *St. Luke's Hosp. v. Gray,* 604 N.W.2d 646, 652 (Iowa 2000). An injury occurs in the course of employment when it is within the period of employment at a place where the employee reasonably may be engaged in doing something incidental thereto. *Quaker Oats Co. v. Ciha*, 552 N.W.2d 143, 150 (Iowa 1996). An employee does not cease to be in the course of employment merely because the employee is not actually engaged in doing

some specifically prescribed task, if, in the course of employment, the employee does some act which he or she deems necessary for the benefit or interest of the employer. *Farmers Elevator Co. v. Manning,* 286 N.W.2d 174, 177 (Iowa 1979).

Prentice was on a trip to Des Moines necessitated by a personal medical appointment. He coupled the personal reason for the trip with performing work-related activities for his brother's company – delivering brake shoes and load tickets and picking up an air conditioning coil for one of the company trucks. Injury during a trip which serves both a business and personal purpose is within the course of employment if the trip involves the performance of a service for the employer which would have caused the trip to be taken by someone else even if it had not coincided with the personal journey. *Golay v. Keister Lumber Co.*, 175 N.W.2d 385, 388-89 (Iowa 1970). Where the trip combines a noncompensable purpose with a special errand for the employer of sufficient substance to be viewed as an integral part of the service, the trip is considered to be in the course of employment. *Id.* Claimant's own testimony confirms that the business purposes for his trip to Des Moines would not have caused him to take the trip if the personal aspect of the trip was not involved. As a result, the commissioner concluded claimant was not in the course of his employment when he began his trip from Waterloo to Des Moines. The commissioner found that Prentice's purpose in traveling changed after his trip was interrupted when he drove into the ditch. At that point in time, Prentice deviated from his primary purpose for the trip to seek out the person who had paged him, believing it was a contractor in the area. Prentice believed he was acting in furtherance of his employer's interests

in detouring to Colfax to look for the contractor who he believed was working on a stretch of road under construction between Colfax and Newton.

It is for the agency to make credibility judgments and weigh the evidence. The commissioner found "[c]laimant's subjective perception that the trip was in furtherance of the employer's interests carries great weight where, as here, that perception is reasonable under the circumstances." The district court determined, "Mr. Prentice may have believed that he was in the course of his employment but that belief was unreasonable in time, place and circumstances." As in many cases, the evidence here could support differing conclusions. Even if we might have made different findings than the commissioner, the question before us is whether the evidence supports the findings the commissioner made. We are not free to interfere with any agency finding where there is a conflict in the evidence or when reasonable minds might disagree about the inference to be drawn from the evidence, whether it is disputed or not. *Stephenson v. Furnas Elec. Co.*, 522 N.W.2d 828, 831 (Iowa 1994). We conclude the commissioner's findings are supported by substantial evidence. There is sufficient evidence in the record to support the commissioner's findings that Prentice had abandoned his trip to Des Moines and had abandoned both his medical appointment and the errands for his employer, because he genuinely thought he was responding to a call pertaining to his employer's business. Based on our standard of review we are bound by those findings and, therefore, reverse the decision of the district court.

REVERSED.