FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

206

DARREL POPPINGA,

Claimant-Appellant,

vs.

GEORGE A. HORMEL & COMPANY,

Employer-Appellee,

LIBERTY MUTUAL INSURANCE CO.,
Insurance Carrier,

Defendants-Appellees.

Filed October 28, 1987

7-227
86-1269

Appeal from the Iowa District Court for Kossuth County (22150), James L. McDonald, Judge.

Claimant appeals the district court decision upholding the decision of the industrial commissioner to deny his application for workers' compensation benefits. **AFFIRMED.**

E.W. Wilcke, Spirit Lake, for claimant-appellant.

Tito W. Trevino, Ft. Dodge, for defendants-appellees.

Heard by Donielson, P.J., and Schlegel and Hayden, JJ. Snell, J., takes no part.

HAYDEN, J. 207

Claimant, Darrel Poppinga, appeals the district court decision upholding the decision of the industrial commissioner to deny his application for workers' compensation benefits. Claimant asserts the commissioner violated Iowa Code section 17A.15 by determining the credibility of a witness contrary to the determination of the agency's hearing officer and without regard to the demeanor of that witness. Claimant also asserts there was not substantial evidence to support the commissioner's decision since there was a preponderance of medical evidence supporting his claim of aggravation of a preexisting medical condition. In the alternative, claimant asserts the commissioner erred by not granting benefits premised either on a theory of occupational disease or cumulative trauma. We affirm.

As a preliminary matter, we note claimant did not raise the issue of the alleged violation of Iowa Code section 17A.15 before either the commissioner or the district court. Contentions not raised before the agency may not be raised for the first time here. Cf. Buchholtz v. Iowa Dept. of Public Instruction, 315 N.W.2d 789, 794 (Iowa 1982) (issue was not raised at the administrative hearing).

Claimant was employed from January 1955 to June 1982 at the Fort Dodge plant of the defendant, George A. Hormel & Company (Hormel). His duties for approximately eight years prior to June 1982 were not physically taxing. He had suffered from arthritis and bursitis. When the Fort Dodge plant closed, claimant accepted a transfer to Hormel's Algona plant and began work there on June 14, 1982. His work that day required him to lift, stack, and strip fifty to seventy-five pound sticks of pepperoni in a section of the plant refrigerated to a temperature of approximately thirty to forty degrees (Fahrenheit). This work involved overhead lifting and some twisting and turning of claimant's torso.

Claimant complained of pain in his right shoulder during the work and was unable to complete it without assistance from a fellow employee. The next day claimant called in sick due to this shoulder pain. He did not return to work at the Algona plant until August 24, 1982. On July 1, 1982, surgery on his right shoulder was performed by Doctor Robert Weatherwax. On June 25, 1983, claimant filed his petition for workers' compensation benefits, alleging he had sustained injury to his shoulders, legs, and knees from the work on June 14, 1982.

Our review of the industrial commissioner's denial of claimant's application for benefits is limited, not de novo. Doerfer Div. of CCA v. Nicol, 359 N.W.2d 428, 432 (Iowa 1984). Our duty is to correct errors of law made by the district court. Thomas v. William Knudson & Sons, Inc., 349 N.W.2d 124, 126 (Iowa App. 1984). We are bound by the commissioner's fact findings if they are supported by substantial evidence when the record made before the agency is viewed as a whole. Iowa Code § 17A.19(8)(f) (1987). These findings are to be applied broadly and liberally to uphold rather than defeat the commissioner's decision and are binding on appeal unless a contrary result is demanded as a matter of law. Briar Cliff College v. Campolo, 360 N.W.2d 91, 93 (Iowa 1984). The fact findings of an administrative agency are supported by substantial evidence if a reasonable person would find that evidence adequate to reach the given conclusion. Mercy Health Center v. State Health Facilities, 360 N.W.2d 808, 811-12 (Iowa 1985); Messina v. Iowa Department of Job Service, 341 N.W.2d 52, 59 (Iowa 1983).

The commissioner found claimant had failed to prove by a preponderance of the evidence his employment was the cause of his condition or was the cause of the alleged aggravation of that condition. This finding is supported by substantial evidence in the record when viewed as a whole.

The record reflects claimant has been afflicted with arthritis in his knees and bursitis in his shoulders since at least 1980 and experienced joint problems for more than ten years prior to that time. Although we are intuitively inclined to believe claimant's work for Hormel for nearly thirty years contributed in some way to his condition, the facts in the record simply do not support finding such causation. The opinion of claimant's doctors, expressed either in letters or upon being deposed, was that claimant's condition was organic. They did not address whether it could have been caused by his employment. The lack of evidence regarding causation was such that a reasonable person would conclude, as did the commissioner, that causation had not been shown. To the extent therefore claimant's application for benefits was premised either on a theory of occupational disease or cumulative trauma, it was properly denied.

Claimant asserts, however, even if his preexisting condition was not shown to have been caused by his employment, the preponderance of the medical evidence at the hearing supported his claim that his work on June 14, 1982, aggravated his condition. Thus, claimant contends there was not substantial evidence in the record to support the commissioner's decision regarding the alleged aggravation.

Claimant's doctor, Dr. Weatherwax, stated at his deposition he thought the cold working conditions experienced by claimant and the overhead lifting required of him on June 14th aggravated his condition, but only in the sense that it made it more painful. Dr. Weatherwax stated that if claimant had only been working under such conditions for a day or two, or a week or two, the work would not lead to the chronic changes with which claimant was afflicted and for which he sought benefits. It is undisputed claimant only worked under the above-described conditions for one day. We conclude these statements of claimant's doctor, particularly in the absence of any other evidence tending

to show claimant's condition was aggravated by his employment, are such that a reasonable person would find them adequate to conclude claimant did not prove his work on June 14, 1982, aggravated the condition of his right shoulder.

AFFIRMED.