IN THE COURT OF APPEALS OF IOWA

No. 1-449 / 91-118

FILED
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CLERK SUPREME COURT

EVENTIDE LUTHERAN HOME FOR THE AGED,

Petitioner-Appellant,

vs.

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ROSE A. PEDERSEN,

Respondent-Appellee.

Appeal from the Iowa District Court for Crawford County, Gary E. Wenell, Judge.

Petitioner appeals the decision of the district court which affirmed the Industrial Commissioner's award of workers' compensation benefits to respondent. **AFFIRMED.**

Michael R. Mundt of Franck, Mundt & Mundt, Denison, for appellant.

Harry W. Dahl, Des Moines, for appellee.

Considered by Oxberger, C.J., and Schlegel and Habhab, JJ.

HABHAB, J.

The claimant, Rose Pedersen, was employed as a nurses' aide for Eventide Lutheran Home for the Aged. On April 11, 1985, Pedersen injured her back while changing a mattress pad. In order to change the pad, it was necessary to move the mattress, which was filled with a gel heavier than water. Changing mattress pads was an ordinary part of Pedersen's duties.

Pedersen was subsequently examined by a number of physicians. She had surgery on her back in August 1985. However, her condition did not improve. She is unable to do any lifting, and has not worked since the day of the injury.

On January 28, 1986, Pedersen filed a petition seeking worker's compensation for her work-related injury. Eventide claimed Pedersen's injuries were due to an existing condition caused by her involvement in previous automobile accidents. An administrative hearing was held, and on January 31, 1989, the Deputy Industrial Commissioner issued his finding that Pedersen has sustained total disability as a result of the back injury, and awarded her compensation in the amount of $109.54 per week for as long as she is disabled and $3,156.60 in medical bills.

Eventide appealed to the Industrial Commissioner. On March 23, 1990, the commissioner affirmed the deputy's decision.

Eventide subsequently filed a petition for judicial review to the district court. On December 31, 1990, the district court affirmed the Industrial Commissioner. Eventide has appealed. We affirm.

I.

Our review in workers' compensation cases is for the correction of errors at law, not de novo. Second Injury Fund of Iowa v. Braden, 459 N.W.2d 467, 468 (Iowa 1990). The commissioner's determinations of questions of law are entitled to careful consideration, but are not conclusive and are subject to review on appeal. Thomas v. William Knudson & Son, Inc., 349 N.W.2d 124, 125 (Iowa App. 1984). Where the facts are disputed, we will adopt the factual determinations made by the agency as long as they are supported by substantial evidence in the whole record. Department of Transportation v. Van Cannon, 459 N.W.2d 900, 902 (Iowa 1990).

II.

Eventide contends the commissioner applied the wrong standard of law in this case. It believes that the special rule concerning preexisting heart conditions should be applied to preexisting back conditions. A compensable injury may result when heavy exertions ordinarily required by work are superimposed on a defective heart, aggravating or accelerating the preexisting condition or when the

medical testimony shows an instance of unusually strenuous employment exertion, imposed upon a preexisting diseased condition. Briar Cliff College v. Campolo, 360 N.W.2d 91, 94 (Iowa 1984); Sondag v. Ferris Hardware, 220 N.W.2d 903, 905 (Iowa 1974).

We have found no cases in Iowa applying the special rule for preexisting heart conditions to any other types of injuries or diseases. We are bound in our rulings by existing Iowa law. We find no Iowa cases establishing a showing of "heavy exertions ordinarily required by work" or "unusually strenuous employment exertion" in workers' compensation cases involving back injuries.

The applicable rule for most injuries, including back injuries, is that when employees are hired, employers take them subject to any active or dormant health impairments incurred prior to employment. Bearce v. FMC Corp., 465 N.W.2d 531, 536 (Iowa 1991); Ziegler v. United States Gypsum Co., 252 Iowa 613, 620, 106 N.W.2d 591, 595 (1960). So if a subsequent injury aggravates a preexisting condition rendering the condition disabling, the employer is liable for the disability. Bearce, 465 N.W.2d at 536.

The Industrial Commissioner did not apply the special rule for preexisting heart conditions, but applied the general rule to the facts here. We conclude the commissioner applied the correct rule of law.

III.

Eventide also contends there was not substantial evidence in the record to support the commissioner's findings. In particular, Eventide claims there is not substantial evidence Pedersen was engaged in "heavy exertions ordinarily required by work" or "unusually strenuous employment exertion" at the time she injured her back.

As discussed above, Pedersen was not required to prove these elements in order to be awarded workers' compensation benefits. We find there was substantial evidence in the record to show Pedersen suffered an injury that arose out of and in the course of her employment.

We affirm the decision of the district court and the Industrial Commissioner.

AFFIRMED.