IN THE COURT OF APPEALS OF IOWA

No. 8-627 / 97-1947
Filed February 24, 1999

SANTOS PEREZ RIVERA,
Appellant,

vs.

IBP, INC., Self-Insured,
Appellee.

FILED
FEB 24 1999
CLERK SUPREME COURT

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

Santos Perez-Rivera appeals from a district court order remanding her claim to the workers' compensation commissioner for a more detailed explanation of the agency decision. **AFFIRMED, CASE REMANDED.**

William J. Bribriesco and Daniel D. Bernstein of William J. Bribriesco & Associates, Bettendorf, for appellant.

Roger T. Stetson and Margaret C. Callahan of Belin Harris Lamson McCormick, P.C., Des Moines, and Paul T. Kirchner, Dakota City, Nebraska, for appellee.

Considered by Huitink, P.J., and Vogel and Zimmer, JJ.

HUITINK, P.J.

Santos Perez-Rivera appeals from a district court order remanding her workers' compensation claim to the workers' compensation commissioner for a more detailed explanation of the agency decision. Because we find the workers' compensation commissioner failed to adequately explain the basis for her award of disablility benefits, we affirm the district court and remand the matter to the commissioner for a more detailed agency decision.

I. Background Facts and Proceedings.

The facts of this case are undisputed. On November 8, 1993, Perez-Rivera suffered a back injury when she fell while working for IBP, Inc., at its pork processing plant in Columbus Junction, Iowa. The parties stipulated the injury arose out of and in the course of Perez-Rivera's employment with IBP. No further recitation of the facts is necessary for our resolution of the issue presented.

Perez-Rivera filed a claim seeking workers' compensation benefits from IBP. A deputy workers' compensation commissioner entered a proposed agency decision determining Perez-Rivera sustained a twenty-five percent (25%) industrial disability due to her back injury. The deputy awarded Perez-Rivera 125 weeks of permanent partial disability benefits.

Perez-Rivera appealed the decision to the workers' compensation commissioner. After reviewing the record, the commissioner entered an appeal decision which adopted the deputy's findings of fact without modification.

Additionally, the commissioner adopted the deputy's conclusions of law with the exception of deleting one sentence regarding the amount of overtime work Perez-Rivera lost as a result of her injury. The commissioner increased Perez-Rivera's industrial disability from twenty-five percent (25%) to thirty-five percent (35%). The commissioner awarded Perez-Rivera 175 weeks of permanent partial disability benefits instead of the 125 weeks ordered by the deputy.

IBP filed a petition for judicial review challenging the commissioner's decision. The district court found the workers' compensation commissioner failed to indicate the basis for modifying the deputy's decision and remanded the case to the commissioner for a detailed explanation of the award. Perez-Rivera appeals from the district court decision, claiming the commissioner's appeal decision is supported by sufficient evidence.

II. Standard of Review.

Our review is governed by Iowa Code chapter 17A, Iowa's administrative procedure act. *See* Iowa Code § 86.26; *Murillo v. Blackhawk Foundry*, 571 N.W.2d 16, 17 (Iowa 1997). Our review, like that of the district court, is on error. *Honeywell v. Allen Drilling Co.*, 506 N.W.2d 434, 435 (Iowa 1993). We reverse the commissioner's findings of fact if they are unsupported by substantial evidence in the record made before the agency when the record is viewed as a whole. Iowa Code § 17A.19(8)(f). Evidence is substantial when reasonable minds would accept it as adequate to reach the same findings. *Honeywell*, 506 N.W.2d at 435. The mere fact

we could draw inconsistent conclusions from the same evidence does not mean the commissioner's conclusions were unsupported by substantial evidence. *Terwilliger v. Snap-On Tools Corp.*, 529 N.W.2d 267, 271 (Iowa 1995). The ultimate question is not whether the evidence supports a different finding but whether it supports the finding the commissioner actually made. *Id.* An agency action may not be "unreasonable, arbitrary, or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion." Iowa Code § 17A.19(8)(g). *See also Second Injury Fund v. Klebs*, 539 N.W.2d 178, 180 (Iowa 1995).

III. The Merits.

Administrative findings of fact must be sufficiently certain to enable a reviewing court to ascertain with reasonable certainty the factual basis on which the administrative officer or body acted. *Catalfo v. Firestone Tire & Rubber Co.*, 213 N.W.2d 506, 509 (Iowa 1973). Meaningful appellate review is impossible in the absence of reasoned findings of fact. *Id.*

The workers' compensation commissioner is "charged with making findings of fact and conclusions of law in proceedings before [her]." *Id.* at 510. The deference courts are required to give her findings of fact carries with it a correlative duty on her part to state the evidence she relies upon and specify in detail the reasons for her conclusions. *Id.* Her decision must be sufficiently detailed to show the path she has taken through conflicting evidence. *Id.* Otherwise we have no way to determine if she acted arbitrarily or misapplied the law. *Id.*

Iowa law is clear regarding the commissioner's duty to adequately explain the reasoning and evidence upon which she relies in reviewing a deputy commissioner's proposed agency decision. Our supreme court stated the rule succinctly when it held:

> The commissioner must explain the calculation and reasons for the decision. Without this explanation, appellate courts have no way to determine whether the commissioner acted arbitrarily or misapplied the law.

Murillo, 571 N.W.2d at 20 (citing *Catalfo*, 213 N.W.2d at 510). *See also Terwilliger*, 529 N.W.2d at 274 (commissioner must state reasons for rejecting any evidence and detail path to decision); *Vosberg v. A.Y. McDonald Mfg. Co.*, 519 N.W.2d 405, 409 (Iowa App. 1994)("The plain statement the appropriate factors were considered does not provide us with the basis for the commissioner's decision").

We find the deputy workers' compensation commissioner made extensive findings of fact in her decision. In her appeal decision, the workers' compensation commissioner adopted the findings of fact in their entirety and also adopted the deputy's conclusions of law with the exception of deleting one sentence. The workers' compensation commissioner made no attempt to explain the basis for increasing the industrial disability rating given to Perez-Rivera. We cannot infer the basis for the commissioner's decision from the single sentence regarding the loss of overtime hours she deleted from the deputy's conclusions of law.

Because the appeal decision of the commissioner lacks the specificity of explanation required under *Murillo*, proper judicial review is not possible.[1] We find the district court properly remanded this matter to the workers' compensation commissioner for an adequate explanation of the reasoning and evidence she relied upon in modifying the deputy workers' compensation commissioner's proposed agency decision.

AFFIRMED, CASE REMANDED.

---

[1] Because of the severely limited extent of relief available on judicial review, the losing party is plainly entitled to know precisely what facts have been found. Such a party is also entitled to a detailed statement of the commissioner's legal conclusions and the application of those conclusions upon the facts thus found. Lacking the clear and detailed outline required under section 17A.16(1), losing litigants are at a loss to know whether they should seek judicial review. It is crucial that a party be able to learn whether an adverse determination was factual (in which case the litigant is generally powerless) or legal (in which case the litigant can search for error). It goes without saying that this knowledge is important not only to the litigant but as well for the courts sitting in judicial review. Sometimes the commissioner, sitting as finder of fact, will be unable to make a finding on some important factual claim of the litigant. When this occurs the commissioner owes it to the litigant to say so and give the reasons.

Ward v. Iowa Dept. of Transp., 304 N.W.2d 236, 238 (Iowa 1981). (Citations omitted.)