IN THE COURT OF APPEALS OF IOWA

No. 1999-497 (9-754) / 99-285
Filed January 26, 2000

ALLEN HUDSON,

Petitioner-Appellant,

vs.

ARCHER DANIELS MIDLAND COMPANY,

Respondent-Appellee.

FILED
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CLERK SUPREME COURT

Appeal from the Iowa District Court for Clinton County, David H. Sivright, Jr., Judge.

The petitioner appeals from the district court's ruling on judicial review affirming the industrial commissioner's decision denying his claim for workers' compensation benefits for a left knee injury. **AFFIRMED.**

James D. Bruhn of Farwell & Bruhn, Clinton, for appellant.

Jean Dickson Feeney and Mark A. Woollums of Betty, Neuman & McMahon, L.L.P., Davenport, for appellee.

Heard by Huitink, P.J., and Streit and Miller, JJ.

HUITINK, P.J.

I. Background Facts and Proceedings.

At all times relevant to this case Allen Hudson worked as a laborer for Archer Daniels Midland Company at its Clinton corn processing plant. Hudson's job duties included climbing and lifting incidental to loading railroad cars.

On April 18, 1994, Hudson fell while loading a railroad car. He was taken to the hospital where he was examined and treated for a knee injury by Dr. Colah. According to Dr. Colah, x-rays taken at that time showed severe osteoarthritis affecting Hudson's knee. Hudson subsequently consulted Dr. Hoffman, an orthopedic surgeon, after initial treatment failed to resolve Hudson's continuing pain and resulting disability. Hoffman's diagnosis was that Hudson suffered degenerative arthritis in his left knee necessitating a total knee replacement, which was completed on June 8, 1994.

Hudson filed a workers' compensation claim alleging a work-related injury on April 18, 1994. The administrative record included opinion testimony from Drs. Hoffman and Colah concerning the conditions necessitating Hudson's knee replacement surgery.

A deputy industrial commissioner awarded Hudson benefits after concluding Hudson sustained a cumulative injury to his left knee. On appeal, the commissioner determined Hudson's knee injury was not related to a traumatic or cumulative injury and denied Hudson benefits. In reaching this conclusion, the commissioner specifically rejected Dr. Hoffman's opinion supporting the deputy's conclusions.

Hudson timely filed a petition for judicial review. The district court determined that the commissioner could properly reject Hoffman's opinion and rely on Colaw's opinion that Hudson's knee injury was not work related. The court concluded there was substantial evidence supporting the industrial commissioner's conclusion. The court also agreed with the commissioner's determination that Hudson's work did not involve any greater knee trauma than he might encounter in everyday life. The district court accordingly affirmed the industrial commissioner's decision.

On appeal Hudson contends the industrial commissioner's decision is not supported by substantial evidence when the record is viewed as a whole. He argues "the evidence, including Dr. Hoffman's opinion testimony, establishes factual or medical causation with respect to the left knee based on aggravation of a preexisting condition and cumulative work activity."

II. Standard of Review.

Our review of this case is governed by Iowa Code chapter 17A (1991). *See* Iowa Code § 86.26; *Second Injury Fund v. Nelson*, 544 N.W.2d 258, 264 (Iowa 1995). Our review of administrative agency decisions—like that of the district court—is limited to correcting legal error. *Second Injury Fund of Iowa v. Shank*, 516 N.W.2d 808, 812 (Iowa 1994). The findings of the commissioner are akin to a jury verdict, and we broadly apply them to uphold the commissioner's decision. *Id.* The question is not whether the evidence supports a different decision, but whether it supports the decision actually made by the industrial commissioner. *Terwilliger v. Snap-On Tools Corp.*, 529 N.W.2d 267, 271 (Iowa 1995).

We may reverse, modify, or remand this case to the commissioner for further proceedings if the agency decision is affected by an error at law, or if the decision is not supported by substantial evidence. *Quaker Oats v. Ciha*, 552 N.W.2d 143, 149-50 (Iowa 1996). Evidence is substantial if a reasonable mind would find it adequate to reach the same findings. *Murillo v. Blackhawk Foundry*, 571 N.W.2d 16, 17 (Iowa 1997). The commissioner's decision does not lack substantial evidence because inconsistent conclusions may be drawn from the same evidence. *Id.* The ultimate question is not whether the evidence supports a different finding, but whether it supports the finding the commissioner actually made. *Id.*

III. The Merits.

Hudson, as the claimant, bore the burden to prove his knee injury arose out of and in the course of his employment. *Quaker Oats*, 552 N.W.2d at 150. The "cumulative injury rule permits an employee to receive benefits for an accidental disability that gradually develops over a period of time." *McKeever Custom Cabinets v. Smith*, 379 N.W.2d 368, 374 (Iowa 1985). For purposes of this rule, the compensible injury occurs when pain prevents the employee from continuing to work. *Id.*

Similarly, an employee may recover benefits despite a preexisting condition if the preexisting condition is materially aggravated, accelerated, or worsened so that it results in disability. *Department of Transp. v. Van Cannon*, 459 N.W.2d 900, 904 (Iowa App. 1990); *Musselman v. Central Tel. Co.*, 261 Iowa 352, 359, 154 N.W.2d 128, 132 (1967). Whether there is a causal relationship between the injury and employment activities is "essentially within the domain of

expert testimony, and the weight to be given such an opinion is for the finder of fact." *Id.*

Hudson advanced both traumatic and cumulative injury theories of recovery before the commissioner. Because Hudson was injured while at work, the fighting issue was whether, under either theory, Hudson's injury arose out of his employment. *See Sheerin v. Holin Co.*, 380 N.W.2d 415, 417 (Iowa 1986) (words "arising out of" refer to cause or source of the worker's injury).

The commissioner resolved this issue against Hudson, stating:

> Claimant must also show, however, that he has sustained an injury which arose out of his employment.
>
> It may be important here to distinguish between claimant's burden to show that he suffered an injury arising out of his employment, and his burden to show that his present condition is causally connected to his injury. The former requires a causal nexus between the work and the injury; the latter a causal nexus between the condition complained of and the work injury. To carry his burden to show that his alleged injury arose out of his employment, claimant must show that some aspect of the work environment caused or contributed to his injury.
>
> Although claimant's versions of what happened on April 18, 1994 differ slightly, essentially claimant stepped down from one level to another and then bent to close a lid and felt severe pain in the left knee.
>
> The record shows that for months and in fact years, claimant had been experiencing problems with his knee. Claimant had undergone surgery on the knee several years earlier. In the days and weeks leading up to the April 18, 1994 incident, claimant had been walking in an irregular fashion because of the knee pain he was experiencing, had swelling and pain and could not straighten the knee.
>
> There was no aspect of claimant's work activity on April 18, 1994 that can be said to have caused his left knee condition. On the contrary, that condition existed long before that day and claimant had been experiencing serious problems with that knee for some time. Claimant's described activities on April 18, 1994 were

> not strenuous or dangerous. The "giving out" of the knee that occurred at work on April 18, 1994, could have as easily occurred during nonwork hours during claimant's normal daily activities. It is concluded that the April 18, 1994 incident was not an injury and that it did not arise out of the employment. Rather, the April 18, 1994 incident was merely the latest in a long series of episodes involving claimant's knee that merely happened to occur while claimant was at work. There is no showing that any work activity caused or aggravated claimant's knee condition on April 18, 1994.
>
> Even if the incident on April 18, 1994 could be viewed as a work injury arising out of the employment, it cannot be said that claimant's current left knee condition is causally connected to the work injury.
>
> Claimant was already experiencing severe symptoms prior to that day and the April 18, 1994 incident merely served as a setting for the culmination of a severe degenerative medical condition that would have inevitably forced claimant to seek further medical treatment at some point in time, somewhere. Even Dr. Hoffman agreed that normal activities would also aggravate claimant's knee condition.
>
> The severe problem in claimant's left knee was caused by long-standing degenerative disease and not by any physical activity on April 18, 1994. The work restrictions and rating of impairment later assigned to claimant were the result of this long-standing disease process and not the April 18, 1994 incident. The April 18, 1994 incident did not cause or aggravate claimant's preexisting condition.

The record contains substantial evidence supporting the commissioner's conclusions. Both medical experts testified Hudson's knee replacement was necessitated by degenerative joint disease. There is evidence indicating Hudson's work-related activities were no more aggravating to his condition than nonwork-related activities. Moreover, when Dr. Hoffman's testimony is considered in its entirety, it supports the commissioner's conclusion that Hudson's knee replacement was inevitable with or without the physical demands of his employment.

We accordingly affirm the judgment of the district court.

AFFIRMED.