IN THE COURT OF APPEALS OF IOWA

No. 4-268 / 93-1778

FILED
SEP 16 1994
CLERK SUPREME COURT

LINDA HOLSEID,

Petitioner-Appellant,

vs.

FIRESTONE TIRE & RUBBER CO.,

Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Linda R. Reade, Judge.

The petitioner, a workers' compensation claimant, appeals from the district court's decision on judicial review affirming the industrial commissioner's decision denying her claim for benefits. **AFFIRMED.**

Jeffrey G. Flagg of Flagg Law Firm, Des Moines, for appellant.

Marvin E. Duckworth of Hopkins & Huebner, P.C., Des Moines, for appellee.

Considered by Donielson, C.J., and Sackett and Huitink, JJ.

PER CURIAM

The question in this appeal is whether the trial court erred in determining a worker's compensation Commissioner's decision was supported by substantial evidence. We affirm.

Petitioner-appellant Linda Holseid claims she suffered a shoulder injury while working for respondent-appellee Firestone Tire & Rubber Company. The Industrial Commissioner found there was not a causal connection between Holseid's alleged shoulder injury and her employment.

Holseid's petition for workers' compensation benefits claimed she was injured on March 27, 1989, and suffered bilateral thoracic outlet syndrome. The Deputy Industrial Commissioner determined Holseid sustained a simultaneous bilateral thoracic outlet cumulative injury which arose out of and in the course of her employment with Firestone and ordered Firestone to pay Holseid two hundred weeks of permanent partial disability benefits and intermittent healing period benefits. Firestone appealed the arbitration decision to the Iowa Industrial Commissioner who reversed the decision of the Deputy finding Holseid failed to prove there was a causal connection between her alleged shoulder injury and her employment. Holseid appealed from the Industrial Commissioner's decision and, on appeal to the district court, the district court affirmed the Industrial Commissioner's decision. This appeal follows.

The standard for review in this case is limited to an inquiry into whether there is substantial evidence in the record as a whole to support the agency's decision. Chauffeurs, Teamsters and Helpers, Local Union No. 238 v. Iowa Civil Rights Comm'n, 394 N.W.2d 375 (Iowa 1986). We are bound by the agency's fact findings if those findings are supported by substantial evidence. Iowa Code § 17A.19(8)(f) (1991); see Fernandez v. Iowa Dep't of Human Servs., 375 N.W.2d 701, 705 (Iowa 1985). Evidence is substantial if a reasonable person would find it adequate for reaching a decision. Peoples Memorial Hosp. v. Iowa Civil Rights Comm'n, 322 N.W.2d 87, 91 (Iowa 1982). In making a determination as to whether an agency decision was supported by substantial evidence, the reviewing court will apply the law and determine whether its conclusions are the same as the lower court's. Ray v. Iowa Dep't of Job Serv., 398 N.W.2d 191 (Iowa App. 1986). Evidence is substantial to support an agency's decision when a reasonable person would find it adequate to reach a conclusion. Eaton v. Iowa Dep't of Job Serv., 376 N.W.2d 915, 917 (Iowa App. 1985). The question is not whether the evidence might support a different finding but whether the evidence supports the findings actually made. Henry v. Iowa Dep't of Job Serv., 391 N.W.2d 731, 734 (Iowa App. 1986). The fact that two inconsistent conclusions can be drawn from the evidence does not mean that one of those conclusions is unsupported by substantial evidence. Id.

The sole issue on appeal is whether there is substantial evidence to support the Industrial Commissioner's decision finding there was not a causal connection between Holseid's shoulder injury and her employment with Firestone.

A review of the medical records and opinions of Dr. Riley, Dr. Wirtz, Dr. Johnson, Dr. Grundberg, Dr. Thompson, and Dr. Reibold fails to express an opinion on causation.

Dr. Blessman, the only physician who has actually observed Holseid's job being performed, testified the bilateral thoracic outlet syndrome was not caused by her employment. However; Dr. Danielson reported Holseid's symptoms have been aggravated by her employment at Firestone.

There is medical evidence Holseid's shoulder injury was caused by her employment and evidence it was not.

Expert testimony, even if uncontroverted, may be accepted or rejected in whole or in part by the trier of fact. Lithcote Co. v. Ballenger, 471 N.W.2d 64, 66 (Iowa App. 1991). When facts are in dispute or when reasonable minds might differ on the inferences to be drawn from the evidence, the agency's findings are conclusive. See Boyd v. Iowa Dep't of Job Serv., 377 N.W.2d 1, 2 (Iowa App. 1985).

The burden of proof is on Holseid to prove some incident or activity was a proximate cause of impairment on which she bases her claim; a possibility is insufficient; a

probability is necessary; and the Industrial Commissioner's findings have the force of a jury verdict. See Sondag v. Ferris Hardware, 220 N.W.2d 903, 905 (Iowa 1974); Anderson v. Oscar Mayer & Co., 217 N.W.2d 531, 535 (Iowa 1974). We find Holseid failed to prove her shoulder injury was causally related to her employment with Firestone. We affirm the Industrial Commissioner and district court.

AFFIRMED.