

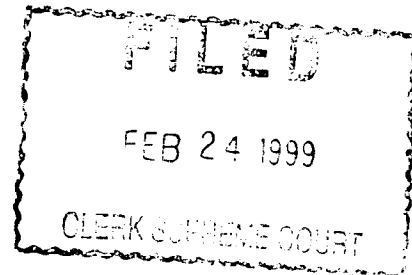
IN THE COURT OF APPEALS OF IOWA

No. 8-634 / 97-2140
Filed February 24, 1999

RAYMOND E. HENECKE,
Appellant,

vs.

**KLEIN TOOLS, INC., and
ITT HARTFORD,**
Appellees.



Appeal from the Iowa District Court for Linn County, August F. Honsell,
Judge.

Raymond Henecke appeals from the district court's ruling on judicial review affirming the industrial commissioner's decision denying his workers' compensation claim for a purely mental injury. **AFFIRMED.**

Kenneth F. Dolezal of Dolezal, Lindeman & Davison, Cedar Rapids, for appellant.

Deborah Dubik and Peter J. Thill of Betty, Neuman & McMahon, Davenport, for appellees.

Considered by Sackett, C.J., and Streit and Mahan, JJ.

STREIT, J.

~~Raymond~~ Henecke appeals the trial court's affirmance of the Industrial Commissioner's decision denying him workers' compensation benefits based upon his major depressive/paranoid condition. Because we find the Industrial Commissioner's decision supported by substantial evidence on the record, we affirm.

I. Background Facts & Proceedings.

Henecke began working for Klien Tools, Inc., in 1980 as a machine maintenance person. He was suspended in November 1992 for threatening his supervisor, Tracy Vendetti, with violence and discharged in December 1992 for insubordination after further confrontations with Vendetti.

About a year before his discharge, Vendetti became Henecke's supervisor. Vendetti's supervisory style was different than Henecke's previous supervisor in that Vendetti closely monitored Henecke's activities. Because of his supervisory style, Vendetti was not well liked among the employees.

In 1992, Henecke became sullen and withdrawn, as well as more vocal in his complaints about management. He asked for a change of supervisors, which was denied. He also began to experience health problems, including shortness of breath and weight loss. In late 1992, he was diagnosed with major depressive disorder and paranoia. After termination of his employment at Klien, he continued to have mental problems.

In February 1996, Henecke sought workers' compensation benefits based on his major depressive/paranoid disorder. The Industrial Commissioner denied benefits and Henecke sought judicial review in district court. The district court affirmed the decision of the Industrial Commissioner. Henecke appeals.

II. Standard of Review.

An appellate court reviews decisions of the Industrial Commissioner under the rules set out in the Iowa Administrative Procedure Act, Iowa Code section 17A.19. *Pirelli-Armstrong Tire Co. v. Reynolds*, 562 N.W.2d 433, 436 (Iowa 1997). Review is for the correction of errors at law, not de novo. *Henkel Corp. v. Iowa Civil Rights Comm'n*, 471 N.W.2d 806, 809 (Iowa 1991).

It is the commissioner's task, not the court's, to weigh the evidence. *Reynolds*, 562 N.W.2d at 436. For this reason, the commissioner's findings are binding on appeal if supported by substantial evidence. *Id.* The court may reverse, modify, or grant other appropriate relief only if the agency action is unsupported by substantial evidence in the record. *Burns v. Bd. of Nursing*, 495 N.W.2d 698, 699 (Iowa 1993).

In deciding whether substantial evidence exists, the record is viewed as a whole. Iowa Code § 17A.19(8)(f). Evidence is substantial if a reasonable mind would find it adequate to reach the same conclusion. *2800 Corp. v. Fernandez*, 528 N.W.2d 124, 126 (Iowa 1995). Evidence is not insubstantial merely because it would have supported contrary inferences; nor because of a possibility of drawing two inconsistent conclusions from it. *City of Hampton v. Iowa Civil Rights Comm'n*, 554

N.W.2d 532, 536 (Iowa 1996). In determining whether evidence is substantial to support a ~~decision~~, the ultimate question is not whether the evidence supports a different finding, but whether the evidence supports the finding actually made. *Id.* In light of these standards, we assess whether the district court erred in affirming the findings of the Industrial Commissioner.

III. Henecke's Entitlement to Workers' Compensation Benefits Based on a Mental/Mental Injury.

Henecke seeks workers' compensation benefits based upon his major depressive/paranoid mental condition.

Our supreme court accepted nontraumatic mental injuries as compensable under Iowa's workers' compensation statutes in *Dunlavey v. Economy Fire & Casualty Co.*, 526 N.W.2d 845, 851 (Iowa 1995). For workers' compensation purposes, the injury must arise out of and in the course of the employment. Iowa Code § 85.3(1). This causation element requires two determinations: causation in fact and legal causation. *Dunlavey*, 526 N.W.2d at 853. Factual and legal causation are broken down as follows: (1) a claimant's mental injury was caused in fact by mental stimuli in the work environment; and (2) a claimant's mental injury was caused by unusual **stress** in the workplace; that is, stress of greater magnitude than the day-to-day mental stresses experienced by other workers employed in the same or similar jobs. *Id.* at 923.

A significant contributing factor to Henecke's mental condition was his work place; and more specifically, Vendetti's supervision. Henecke met his burden of proving cause in fact. The reason Henecke was denied benefits was the Industrial Commissioner, and the district court in affirming the Commissioner, found Henecke had not proved legal causation. Henecke contends he put forth sufficient evidence of legal causation to prove his entitlement to benefits for his mental injury. The focus of our decision is whether the Commissioner's conclusion Henecke had not suffered unusual stress is supported by substantial evidence in the record. *See Dunlavey*, 526 N.W.2d at 855-56.

We are mindful of several concepts in determining whether Henecke established legal causation. First, workers are not allowed to recover for long-term mental injuries when those injuries were triggered by everyday work stress. *City of Cedar Rapids v. Board of Trustees*, 572 N.W.2d 919, 924 (Iowa 1998). There are very few workers with nontraumatic mental problems who cannot show that job stress contributed to their problems. *Id.* Second, the nature of the incident claimed to have caused the unusual stress is probative of the kind of stress that the incident has actually generated. The more extraordinary the incident the greater the stress. *Id.*

Henecke has offered the following to prove the stress of his job was unusual:

(1) testimony of a fellow employee there was animosity between Vendetti and Henecke and Vendetti "dogged" Henecke; (2) testimony of a fellow employee that Vendetti made "smart-alec" comments to Henecke; (3) Henecke's testimony Vendetti

“dogged” him all the time, stood over his shoulder, threatened him, and denied him vacation requests; (4) the fact his request to have his supervisor changed was denied; (5) a confrontation between Henecke and Vendetti in which Vendetti gave Henecke an order and Henecke threatened Vendetti; and (6) the fact Henecke was suspended and discharged.

Henecke did not offer any evidence of the stress usual to a person in his position generally; or evidence regarding the usual stress to employees at Klien Tools, Inc., under Vendetti’s supervision. He seeks to prove legal causation by offering specific incidents he regarded as unusually stressful. We have reviewed each incident Henecke claims to have caused him unusual stress and find the incidents insufficient to establish legal causation.

It is clear Vendetti is not admired by the employees at Klien Tools, Inc. due to his supervisory style. It is clear an animosity existed between Vendetti and Henecke. Yet, Henecke’s perception of the described incidents is not unusual in a workplace where ideal relations do not exist between a supervisor and an employee. Part of the day-to-day stress of any job is coping with other employees and supervisors, even those toward which an animosity exists. We find Henecke’s contention that he was physically threatened by Vendetti without support in the record.

The fact Henecke was denied requested vacation days cannot be considered an unusual stress. Henecke offered no evidence Vendetti’s denial of his vacation days

was atypical for Vendetti in dealing with his employees. Further, his suspension for threatening Vendetti and discharge for insubordination relating to this incident were not unusually stressful considering the context of the situation; that Henecke had threatened to physically harm Vendetti.

For these reasons, we find the Industrial Commissioner's conclusion Henecke had not established legal causation supported by substantial evidence, and do not disturb the find of the Commissioner or affirmance by the trial court on appeal.

AFFIRMED.