FILED
JAN 29 1992
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 1-561 / 91-657

625

JAMES F. WICKMAN,

Appellant,

vs.

EMPLOYMENT APPEAL BOARD and ALUMINUM COMPANY OF AMERICA,

Appellees.

Appeal from the Iowa District Court for Scott County, James E. Kelley, Judge.

Wickman appeals district court's judgment on judicial review affirming Employment Appeal Board's decision denying his claim for unemployment benefits. **AFFIRMED.**

Kent A. Simmons, Davenport, for appellant.

Carole J. Anderson of Lane & Waterman, Davenport, for appellee Aluminum Company of America.

William C. Whitten, Des Moines, for appellee Employment Appeal Board.

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

SCHLEGEL, J.

James Wickman was employed by Aluminum Company of America (ALCOA) from November 1978 until October 1985. He worked in various positions; his last two positions were a machine shop helper and a pack/ship laborer. He suffered a nonwork injury to his left knee in March 1981 which was subsequently aggravated. Three surgeries on the knee did not correct the injury, and the knee has deteriorated.

In July 1985, while Wickman was working as a machine shop helper, he reported to the employer's medical department regarding problems with his knee at work. The problems became so severe by September 1985 that his physician advised him to leave work for a two-week period. Wickman returned to his job as a machine shop helper on September 13, 1985. On September 29, 1985, he was laid off from that position and recalled the next day to the pack/ship department to work as a pack/ship laborer.

Wickman complained to his doctor about pain and swelling in his left knee on October 4, 1985. His doctor restricted him to light duty, finding he should avoid heavy lifting on uneven surfaces and squatting or pivoting-type activities which would aggravate the condition in his knee. On October 8, 1985, Wickman presented his doctor's recommendation to ALCOA's medical director. He was given a medical leave of absence. A medical examination conducted on November 5, 1985, revealed Wickman would have substantial problems with his knee if he should continue

with heavy labor. There was evidence indicating that because of his medical restrictions Wickman could not perform the duties of any other jobs he had previously held.

On October 21, 1987, Wickman filed a claim for unemployment compensation alleging he was laid off for lack of work by his employer. After originally entering favorable rulings on his claims, the agency denied his claims for unemployment benefits and found Wickman had been overpaid certain amounts. The agency determined he was not working for the employer because he could not perform the duties for medical reasons. The appeals board for the department affirmed the denial of unemployment benefits with one member dissenting.

On July 27, 1989, Wickman filed a petition for judicial review. The district court denied petitioner relief determining there was substantial evidence in the record to support the administrative decision. Wickman appeals that decision.

Our review of the district court's decision is limited to correction of errors at law. Roberts v. Iowa Dep't of Job Serv., 356 N.W.2d 218, 221 (Iowa 1984). We, like the district court, are bound by the agency's fact findings if those findings are supported by substantial evidence. 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).

Wickman sets forth two arguments in his appeal. First, he argues the agency and district court erred in concluding he was not laid off due to a lack of work. Second, he contends if the employment separation was not a layoff, it was a quit or termination for good cause attributable to ALCOA. The agency determined the issue to be "whether the conditions of employment so aggravated Mr. Wickman's medical condition that his separation from employment is deemed attributable to the employer." The administrative law judge answered this question in the negative.

We find there is substantial evidence in the record as a whole to support the decision of the Employment Appeal Board and the administrative law judges. Wickman feels the pack/ship job was a job he could not perform and, therefore the cause of his unemployment was attributable to the employer. Wickman began experiencing problems with his knee in July 1985, almost two months prior to his transfer from one position to another. In addition, he missed two weeks of work then because of his knee. We affirm the agency's decision that the change in duties did not significantly impair Wickman's medical condition. See Iowa Code § 96.5(1)(d) (1991).

Wickman also claims the agency and district court made an error of law in using Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985), to interpret Iowa Code section 96.5(1)(d). In Hedges an employee who had been granted a medical leave of absence was released to

"return to work upon a restriction that she avoid lifting anything in excess of 30 pounds." Id. at 864-65. Her employer refused to allow her return stating no comparable work was available in view of her restrictions. Id. at 865. We upheld the denial of her claim stating: " . . . we believe a fair and reasonable interpretation of section 96.5(1)(d) compels us to conclude that unemployment benefits will be afforded under that exception where a claimant is fully recovered and his former position was not held open upon his return." Id. at 867.

In the present case also the claimant was never released as "fully recovered." Doctors imposed a list of restrictions, and he remains on extended medical leave. The Hedges case interprets section 96.5(1)(d) to define "recovery" in its ordinary meaning. We agree with the trial court that:

> In order to qualify for the exemption, Petitioner here must have been certified as being fully recovered following a leave of medical absence, and then find that no position was open to him. In this case, no physician has certified Mr. Wickman to be fully "recovered." The restrictions still upon him are substantial. The agency made no error of law.

The agency properly utilized Hedges.

We affirm the decisions of the Employment Appeal Board and the district court.

AFFIRMED.