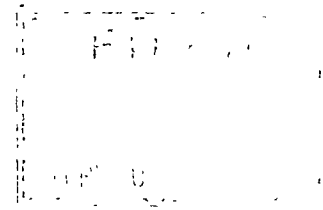


IN THE COURT OF APPEALS OF IOWA

No. 9-96 / 98-371
Filed September 15, 1999



**DUANE HOLST, by and through his
surviving spouse,
CHRISTINA HOLST,
Appellant,**

vs.

**ABELL-HOWE COMPANY and,
AIG INSURANCE COMPANY,
Appellees.**

Appeal from the Iowa District Court for Linn County, Patrick R. Grady, Judge.

The petitioner appeals the district court's ruling on judicial review affirming the industrial commissioner's decision denying his worker's compensation claim.

AFFIRMED.

James M. Powers of Powers & Beard, L.L.P., Cedar Rapids, for appellant.

James M. Peters of Simmons, Perrine, Albright & Ellwood, P.L.C., Cedar Rapids, for appellees.

Considered by Huitink, P.J., and Streit and Mahan, JJ.

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HUFFINK, P.J.

Christina Holst, Duane Holst's surviving spouse, appeals from the district court's decision affirming the industrial commissioner's denial of workers' compensation benefits following Duane's fatal heart attack at work.

I. Background Facts and Proceedings.

The findings of fact adopted by the commissioner provide:

Claimant, Duane Holst, age 49, worked for Abell-Howe as a superintendent supervising construction crews. Although his duties were primarily administrative, he occasionally involved himself in physical work when necessary to complete a job to his satisfaction.

During the afternoon hours of April 20, 1994, while attempting to level the bottom of a hole with a hand shovel prior to pouring cement, Duane collapsed and was transported by ambulance to the hospital. The diagnosis was myocardial infarction or a heart attack causing permanent neurological damage to various parts of his body. Duane has not been able to work in any capacity since April 20, 1994.

According to the evidence, Duane did not suffer any symptoms, pain or otherwise, suggestive of a heart attack that day prior to his collapse. However, on the Monday before, April 18, 1994, while surveying a work site, he suffered recurrent chest pain requiring him to sit down and rest two to four times. The pain then subsided but he told a fellow employee that he would seek a doctor. The next day, on Tuesday, he told that employee that he did not consult a doctor and thought it was just heart burn or indigestion. The fellow employee still told him to see a doctor. For some reason, Duane did not do so.

Holst's theory of recovery was premised on continued exertion required by Duane's employment after the onset of his heart attack. The commissioner rejected Holst's theory, stating:

In the case under consideration, there certainly was an onset of symptoms prior to the heart attack. However, this was days before the

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actual event that lead to Duane's disability. There is no evidence that Duane had any symptoms during the day before his actual heart attack. Certainly, the delay in treatment aggravated the effects of Duane's heart attack, but the decision to delay treatment had nothing to do with his work. He had ample opportunity before, during and after work for several days before his heart attack to seek out medical evaluation and treatment. He was even advised by a fellow employee to do so. However, for some reason unrelated to his work, Duane did not do so.

The district court, citing substantial evidentiary support for the commissioner's findings of fact, affirmed on judicial review. On appeal, Holst argues the record supports an award of benefits, and the commissioner's decision should be reversed.

II. Standard of Review.

Our review of the industrial commissioner's decision is governed by Iowa Code chapter 17A. In such cases, we review for corrections of errors at law. *Simonson v. Snap-On Tools Corp.*, 588 N.W.2d 430, 434 (Iowa 1999).

We may reverse, modify, affirm, or remand the case to the commissioner for further proceedings if we determine the agency's action is affected by an error at law or if it is not supported by substantial evidence. Iowa Code § 17A.19(8). Evidence is considered substantial if a reasonable person would find it adequate to reach a conclusion. *Gallardo v. Firestone Tire & Rubber Co.*, 482 N.W.2d 393, 395 (Iowa 1992).

A reviewing court may interfere with the agency's findings only if the evidence is uncontradicted and reasonable minds could not draw different inferences. *Id.* at 395. Legal error is present under the substantial evidence analysis when an agency reaches a conclusion based on uncontroverted evidence which is contrary to the

~~conclusion~~ reasonable minds would reach. *Riley v. Oscar Mayer Foods Corp.*, 532 N.W.2d 489, 491-92 (Iowa App. 1995). However, if the evidence is in conflict, we are not free to interfere with the commissioner's findings. *Kostelac v. Feldman's, Inc.*, 497 N.W.2d 853, 856 (Iowa 1993).

III. Merits.

In *Riley v. Oscar Mayer Foods Corp.*, 532 N.W.2d 489 (Iowa App. 1995), we recited the legal principles applicable to claims for work-related heart attacks.

Our law allows an employee with a pre-existing heart condition or defect to recover workers compensation for a work related heart attack upon a showing of legal and medical causation. *Briar Cliff College v. Campolo*, 360 N.W.2d 91, 94-95 (Iowa 1984); *Sondag v. Ferris Hardware*, 220 N.W.2d 903, 905-06 (Iowa 1974). The legal test circumscribes the kind of work or exertion which must be present before the injury will be considered to have arisen out of the employment. Arthur Larson, *Workmen's Compensation Law* § 38.83(a) (6th ed. 1994). It supplies the necessary causation between the work performed and the injury. The medical test requires medical evidence that the exertion or work in fact caused the heart attack. *Id.*

In Iowa, the legal causation component of the analysis has been satisfied under one of the three circumstances. The first situation is when heavy exertions ordinarily required by work are superimposed on a defective heart, aggravating or accelerating the pre-existing condition. *Sondag*, 220 N.W.2d at 905. The second situation involves an instance of unusually strenuous employment exertion, imposed upon a pre-existing diseased condition. *Id.* The final situation supporting compensation is when the damage resulted from continued exertions required by the employment after the onset of the heart attack. *Id.* at 906. See *Varied Enterprises, Inc. v. Sumner*, 353 N.W.2d 407, 409 (Iowa 1984).

Id. at 492.

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The record concerning Holst's interest in and efforts to obtain medical attention on and after April 18 is largely undisputed. The commissioner, as the fact finder, was free to infer Holst's decision to forego medical care was attributable to motives other than the needs of his employment. Holst has accordingly failed to show the requisite legal causation supporting her claim. We affirm the commissioner's decision denying benefits.

AFFIRMED.

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