IN THE COURT OF APPEALS OF IOWA

No. 6-321 / 95-1196

FILED
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CLERK SUPREME COURT

JERRY RIPPEY,
Appellant,

vs.

UNIVERSAL ENGINEERING and **FIDELITY & CASUALTY,**
Appellees,

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

Jerry Rippey appeals the district court's ruling affirming the Industrial Commissioner's decision. **AFFIRMED.**

Thomas M. Wertz of Wertz Law Firm, P.C., Cedar Rapids, for appellant.

Dorothy L. Kelley, until her withdrawal, and then Richard G. Book, Des Moines, for appellees.

Considered by Sackett, C.J., Streit, J., and Perkins, S.J.*

*Senior judge from the Fifth Judicial District serving on this court by order of the Iowa Supreme Court.

PERKINS, S.J.

This is an appeal from a decision of the district court affirming the Industrial Commissioner's determination that Jerry Rippey had incurred a thirty-five percent industrial disability and that he was entitled to only two exemptions. We find substantial evidence in the record to support the district court's decision and affirm the district court.

Jerry Rippey began working for Universal in 1971. He was working there as a welder on June 20, 1988 when he was struck and pinned by a falling crusher frame and sustained injury to his left knee and back. Rippey sought worker's compensation for a permanent partial disability as a result of the injury.

The Deputy Commissioner found Rippey had sustained two injuries and had undergone two prior surgeries on each knee prior to the work accident and had two surgeries on his left knee after the accident. The Deputy found Rippey was unable to return to his former work because of the injury; however, he found Rippey was not, as claimed, an odd-lot employee but is able to do some work. The Deputy determined Rippey had sustained a seventy-percent industrial disability and found Rippey was only entitled to two exemptions, one for himself and one for one of his two children.

On appeal the Industrial Commissioner determined Rippey had incurred a thirty-five percent industrial disability. It concurred with the Deputy's finding that Rippey was entitled to only two exemptions.

Rippey sought judicial review. The court found the Commissioner had stated specific reasons for reducing the rating on Rippey's disability-- Rippey's "golf and dancing activities cast doubt on the extent of his disability; his failure to attend vocational rehabilitation reflected adversely on his motivation to find work; and his psychological evaluation showed that he is of reasonable intelligence and a good candidate for retraining." The court affirmed the Commissioner's decision.

Rippey appeals. He argues the Commissioner's reasons for reducing his disability rating were not supported by the evidence. Rippey further argues the Commissioner's determination that he is only entitled to two exemptions constitutes an error of law and should not have been affirmed. Rippey maintains that at the time the work injury occurred he was supporting both of his children and therefore, he is entitled to three exemptions (for himself and two children).

I. Scope of Review. Judicial review of worker compensation cases is at law and not de novo. *Mortimer v. Fruehauf Corp.*, 502 N.W.2d 12, 13 (Iowa 1993). This reviewing standard applies to both the initial review in the district court, as well as the subsequent review by the appellate courts. *Id.* It limits judicial interference with a decision of the Industrial Commissioner to the correction of errors at law. *See Dowell v. Wagler*, 509 N.W.2d 134, 136 (Iowa App. 1993).

The standard of review prescribed for worker compensation cases recognizes that it is the role of the Industrial Commissioner, not the court, to weigh the evidence. *Holmes v. Bruce Motor Freight Inc.*, 215 N.W.2d 296, 298 (Iowa 1974). Courts are

required to give deference to the fact finding role of the agency and must broadly and liberally construe its finding of fact to uphold, not defeat, the decision. *Id.* It is the same respect accorded a jury verdict. *Paveglio v. Firestone Tire & Rubber Co.*, 167 N.W.2d 636, 640 (Iowa 1969).

Review at law means courts are bound by the findings of fact if supported by substantial evidence in the record as a whole. *See Suluki v. Employment Appeal Bd.*, 503 N.W.2d 402, 404 (Iowa 1993). Evidence is substantial if reasonable minds would find it adequate to reach a given conclusion. *Kostelac v. Feldman's Inc.*, 497 N.W.2d 853, 856 (Iowa 1993). Substantial evidence is not absent simply because it is possible to draw different conclusions from the same evidence. *Id.* The focus of the judicial inquiry is whether the evidence is sufficient to support the decision made, not whether it is sufficient to support the decision not made. *Coghlan v. Quinn Wire & Iron Works*, 164 N.W.2d 848, 852 (Iowa 1969). A reviewing court may interfere with the agency's findings only if the evidence is uncontradicted and reasonable minds could not draw different inferences. *Longford v. Kellar Excavating & Grading, Inc.*, 191 N.W.2d 667, 668 (Iowa 1971). 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. If evidence is in conflict, however, the reviewing court has no room to interfere. *Kostelac*, 497 N.W.2d at 856.

II. Determination of Thirty-Five Percent Disability. The trial court found the Industrial Commissioner stated specific reasons for reducing the disability rating from seventy percent to thirty-five percent, and those reasons were supported by substantial evidence. We agree with the trial court.

III. Determination of Number of Exemptions. Jerry Rippey presented no independent proof he was entitled to three rather than two exemptions for dependents. The agency properly relied on the documentary evidence, the tax returns under the facts in this case, to determine that he was entitled to two exemptions (himself and one child).

We affirm the trial court the decision of the Industrial Commissioner is supported by substantial evidence.

AFFIRMED.