FILED
NOV 26 1980
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

WILL O. CARR,

Claimant-Appellee,

vs.

JOHN DEERE WATERLOO TRACTOR WORKS,

Employer-Appellant.

Filed November 26, 1980

0-286
2-63745

Appeal from Black Hawk District Court - Dennis G. Damsgaard, Judge.

Claimant in workers' compensation benefit proceeding appeals district court order upholding agency determination that his claim is barred by section 85.26, The Code. VACATED AND REMANDED.

John W. Rathert of Beecher, Holmes & Rathert, Waterloo, Iowa, for employer-appellant.

Robert D. Fulton of Fulton, Frerichs, Nutting, Martin & Andres, Waterloo, Iowa, for claimant-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

In light of the decision in Orr v. Lewis Central School District, ___ N.W.2d ___ (filed November 12, 1980), we vacate the judgment of the district court in this proceeding for judicial review of agency action. We also vacate the decisions reached at the agency level with respect to the issue of whether appellant's claim is barred by section 85.26, The Code. We remand the matter for reconsideration of that issue at the agency level in light of the Orr decision. If upon such reconsideration, it is determined that appellant's claim is not barred, any additional determinations made necessary by such ruling shall be made at the agency level.

To the extent the issues urged on this appeal remain material following the agency decision rendered after our remand order, these issues may again be made the subject of judicial review. The decision of the district court on these issues, which we vacate, shall not have preclusive effect. We do not retain jurisdiction. Judicial review, if any, of the agency action following remand shall be in the district court in accordance with section 86.26, The Code, with right of appeal to the appellate court. Costs on this appeal are assessed equally between the parties.

VACATED AND REMANDED.