

IN THE COURT OF APPEALS OF IOWA

No. 1-436 / 10-1907
Filed July 13, 2011

ALEKSANDR YANOUSKIY,
Petitioner-Appellant,

vs.

**O'HOLLORAN INTERNATIONAL, INC.,
and FARM BUREAU MUTUAL INS. CO.**
Respondents-Appellees.

Appeal from the Iowa District Court for Polk County, Robert A. Hutchison,
Judge.

Aleksandr Yanouskiy appeals from the district court's decision on judicial
review affirming the workers' compensation commissioner's ruling, which denied
the claimant further benefits. **AFFIRMED.**

Jerry Jackson of Moranville & Jackson, P.C., West Des Moines, for
appellant.

William D. Scherle of Hansen, McClintock & Riley, Des Moines, for
appellees.

Considered by Sackett, C.J., and Doyle and Danilson, JJ.

DANILSON, J.

Aleksandr Yanouskiy appeals from the district court's decision on judicial review affirming the workers' compensation commissioner's ruling, which denied the claimant further benefits. Because we agree with the district court that substantial evidence supports the commissioner's ruling, we affirm.

O'Holloran International, Inc. is a diesel semi-tractor sales and service business. Yanouskiy began working for O'Holloran as a diesel mechanic shortly after he arrived in Des Moines, having immigrated from the Ukraine in 1996. His employment did require heavy lifting, and often lying on the ground under the truck being serviced, contorting his body to fit into the available space while doing repairs.

Yanouskiy suffered an injury to his right arm in December 11, 2003, which led to a series of surgeries. He suffered an injury to his left arm that manifested in August 2005, which too led to surgery. Yanouskiy later developed cervical spine disease, degenerative disc disease, and spondylosis, all of which he attributes to his work at O'Holloran.

He performed only light duty work for O'Holloran after February 8, 2007, and has not worked for O'Holloran in any capacity since September 2007.¹ He received unemployment benefits from August 2007 through February 2008. Yanouskiy sent a "formal notice of my resignation/separation from O'Holloran" on September 18, 2008, in which he stated he had accepted another position as a sales representative with Lithia Motors.

¹ This date may be August 2007, the record is not clear.

In June 2008, Yanouskiy filed a petition for arbitration alleging injuries to his right arm and to his back, and seeking additional permanent disability benefits. It appears Yanouskiy received disability benefits from O'Holloran as follows:

Disability benefits:	From:	To:	Weeks	\$ Amount
Temporary Total	01-10-04	02-23-04	6.429	3378.16
Temporary Total	07-26-04	10-17-04	12	6086.53
Temporary Partial	10-18-04	11-14-04	4	723.96
Temporary Partial	12-13-04	01-02-05	3	804.39
Temporary Total	01-03-05	06-14-05	23.286	12,214.41
Temporary Total	08-29-05	04-02-06	31	16,246.17
Temporary Total	04-10-06	05-21-06	6	3144.42
Temporary Partial	05-22-06	06-18-06	4	804.40
Temporary Total	11-03-06	11-06-06	.571	299.24
Temporary Total	04-05-07	04-05-07	.143	74.94
Temporary Total	04-27-07	04-29-07	.429	224.83
Permanent Partial	04-30-07	08-29-07	18.857	9957.33
Temporary Total	09-09-07	09-22-07	2	1048.14
Temporary Total	09-27-07	12-13-07	11.143	6663.03
Permanent Partial	12-14-07	06-08-09	77.571	40,503.27

Following a hearing, a deputy commissioner issued an arbitration decision detailing Yanouskiy's medical history and noting the opinions of the various doctors involved. The deputy specifically found that Yanouskiy "had no compunction about making statements to his medical providers that were inconsistent with his work restrictions and even his actual work or off work status when he made the statements." Thus, the deputy concluded medical opinions based on his statements of work restrictions and work status "cannot fairly be considered accurate." The deputy accepted the opinion of Dr. Kenneth L. Pollack that Yanouskiy's cervical complaints were not related to the

December 11, 2003 work injury and withheld weight from the opinions of Drs. Daniel J. Baldi and John D. Kuhnlein—explaining that Dr. Pollack had a more accurate history on which to base his medical opinion.

The deputy found Yanouskiy had suffered work-related injuries to his right and left arms, for which he had already received compensation in excess of that to which he was entitled. The deputy ruled Yanouskiy would take nothing from the proceeding.

On intra-agency appeal, the commissioner affirmed and adopted the deputy's decision, with some additional explanation.

Yanouskiy sought judicial review in the district court. The district court issued a comprehensive, well-reasoned decision affirming the commissioner's rulings, including concerns as to the claimant's credibility. See *Arndt v. City of Le Claire*, 728 N.W.2d 389, 394-95 (Iowa 2007) ("It is the commissioner's duty as the trier of fact to determine the credibility of the witnesses, weigh the evidence, and decide the facts in issue.").

After a thorough review and consideration of the record, we conclude the district court's ruling is affirmed without opinion. See Iowa R. App. P. 6.1203(a), (c), and (d).

AFFIRMED.