

IN THE COURT OF APPEALS OF IOWA

No. 2-785 / 12-0468
Filed October 17, 2012

ANNETT HOLDINGS, INC.,
Plaintiff-Appellant,

vs.

CHARLES PEPPLE,
Defendant-Appellee.

Appeal from the Iowa District Court for Polk County, D.J. Stovall, Judge.

An employer appeals from the district court's rulings refusing to stay the enforcement of a workers' compensation award and entering judgment thereon.

AFFIRMED.

Sasha L. Monthei of Scheldrup, Blades, Schrock, Smith & Aranza, P.C.,
Cedar Rapids, for appellant.

Ryan T. Beattie of Beattie Law Firm, P.C., Des Moines, for appellee.

Considered by Vogel, P.J., and Danilson and Mullins, JJ.

DANILSON, J.

Annett Holdings, Inc. appeals from the district court's rulings granting Charles Peple's application for entry of judgment and denying Annett Holdings' application to stay execution of judgment. Finding no abuse of discretion, we affirm.

I. Background Facts and Proceedings.

Charles Peple suffered a work-related injury on June 23, 2008, when he fell from the bed of a semi-truck trailer, suffering a skull fracture, cerebral contusion, chest wall trauma with rib fracture, lung contusion, and a T12 burst fracture. Since his injury, Peple has seen several doctors, and these doctors have provided a range of opinions regarding total amount of whole-person-permanent impairment caused by the accident. On December 9, 2011, the workers' compensation commissioner adopted the deputy's findings that Peple suffered a sixty percent industrial disability and awarded permanent partial disability benefits beginning on November 19, 2008.¹

Annett Holdings sought judicial review, where it is challenging the extent of Peple's industrial disability. Annett Holdings contends the commissioner's award of sixty percent industrial disability is not supported by substantial evidence, and argues that any loss of earning capacity is a result of the employee's misconduct and self-limitation, not his work injury. Peple moved for judgment entry of the commissioner's decision. Annett Holdings filed an

¹ The commencement date of benefits was changed by nunc pro tunc. The benefits Peple claims past due in his motion for judgment entry are in excess of \$8000, with additional weekly benefits from December 29, 2011, through August 22, 2014.

application to stay enforcement of the agency action pending judicial review. The district court weighed the competing factors of Iowa Code section 17A.19(5)(c) (2011) and concluded,

Given the applicable standards for judicial review of agency action, as well as the reasoning set forth in the agency decision, the likelihood that Annett will succeed on its petition for judicial review is not especially high. Annett may suffer some harm, in the form of payments it might not be able to recover, if the stay is denied and the agency decision is later overturned on judicial review. However, the court finds this harm is less certain and less significant than the harm to Pepple if the court did enter the stay. The legislative purpose behind the workers' compensation statutes is to ensure prompt payment of benefits to workers found deserving by the Workers' Compensation Commission, and the public has an interest in seeing this purpose carried out. Based on the foregoing analysis, the court finds a stay is not appropriate in this case. Therefore, the court denies Annett's application for a stay of the agency action, and grants Pepple's motion for entry of judgment.

Annett Holdings now appeals.

II. Scope and Standards of Review.

The filing of a petition for judicial review does not automatically stay enforcement of a workers' compensation judgment. Iowa Code § 17A.19(5)(a). After filing a petition for judicial review, a party may file an application for a stay with the district court. *Id.* § 86.26; *Grinnell Coll. v. Osborn*, 751 N.W.2d 396, 401 (Iowa 2008). Our review of the district court's decision on whether to grant a stay pending judicial review is for abuse of discretion. *Snap-On Tools Corp. v. Schadendorf*, 757 N.W.2d 339, 342 (Iowa 2008); *Grinnell Coll.*, 751 N.W.2d at 398. "That discretion is not unbounded, however. Reversal may be warranted where discretionary action regarding a stay is capriciously exercised or abused." *First Midwest Corp. v. Corporate Fin. Assocs.*, 663 N.W.2d 888, 891 (Iowa 2003)

(internal quotation marks and citation omitted). An abuse of discretion may be shown when it is exercised on untenable grounds or was clearly erroneous. *IBP, Inc. v. Al-Gharib*, 604 N.W.2d 621, 630 (Iowa 2000).

III. Discussion.

A. Stay of Execution. When an applicant requests a stay of execution of the judgment, the court is to consider and balance the following four factors in deciding whether a stay is warranted:

(1) The extent to which the applicant is likely to prevail when the court finally disposes of the matter.

(2) The extent to which the applicant will suffer irreparable injury if relief is not granted.

(3) The extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings.

(4) The extent to which the public interest relied on by the agency is sufficient to justify the agency's action in the circumstances.

Iowa Code § 17A.19(5)(c); *Snap-On Tools*, 757 N.W.2d at 342. The applicant “has the burden to establish the prerequisites for a stay and must submit evidence to the district court concerning all relevant statutory factors at a hearing.” *Grinnell Coll.*, 751 N.W.2d at 403. The applicant need not show that it will eventually prevail in judicial review, but the court will consider the extent or range of the likelihood of success. *Id.* at 402. Proof of one factor can excuse another that is lacking and ultimately, the stay can be granted when the balance of hardships weigh in favor of the applicant. *Id.*

The district court considered all pertinent factors. It found that the first factor (likely success on the merits) weighed against granting a stay, particularly

in light of the issues presented and the applicable standard of review.² With respect to the second factor (irreparable damage), the court found that Annett Holdings' claim—that Pepple would be unable to re-pay benefits should the award be overturned—was speculative, and in any event was outweighed by the third factor (grant of relief would harm others) as the court found that a stay of benefit payments would substantially harm Pepple. The district court further found that the public has an interest in the prompt payment of benefits found due by the workers' compensation commissioner. We have carefully considered the arguments of the parties and find the district court did not abuse its discretion.³

B. Entry of Judgment. When a party requesting judgment has met all the conditions of Iowa Code section 86.42,⁴ the district court is required to enter the judgment in favor of the party requesting judgment. *Snap-On Tools*, 757 N.W.2d

² That standard of review is whether the workers' compensation commissioner's determination of sixty percent industrial disability is supported by substantial evidence in the record. See *Cedar Rapids Cmty. Sch. Dist. v. Pease*, 807 N.W.2d 839, 845 (Iowa 2011).

³ The district court did not address Annett Holdings' summary constitutional contention: [I]f there is public interest implicated by this case, it includes the public's interest to preserve Annett Holdings' rights of Procedural Due Process and Equal Protection as provided for in Article I, sections 6 and 9 of the Iowa Constitution, and the Fourteenth Amendment of the United States Constitution, throughout the appeal process.

We decline to address this unreserved claim. See *Grinnell Coll.*, 751 N.W.2d at 404.

⁴ Iowa Code section 86.42 provides in part:

Any party in interest may present a file-stamped copy of an order or decision of the commissioner, from which a timely petition for judicial review has not been filed or if judicial review has been filed, which has not had execution or enforcement stayed as provided in section 17A.19, subsection 5, . . . and all papers in connection therewith, to the district court where judicial review of the agency action may be commenced. The court *shall render a decree or judgment* and cause the clerk to notify the parties.

(Emphasis added.)

at 341; *Rethamel v. Havey*, 679 N.W.2d 626, 628 (Iowa 2004). Therefore, the court was correct in entering the judgment as requested by Pepple.

We therefore affirm.

AFFIRMED.