

IN THE COURT OF APPEALS OF IOWA

No. 6-254 / 05-1368
Filed June 14, 2006

JESUS RIOS,
Plaintiff-Appellant,

vs.

IBP, INC., a/k/a TYSON FOODS, INC.,
Defendant-Appellee.

Appeal from the Iowa District Court for Des Moines County, Cynthia Danielson, Judge.

Jesus Rios appeals from the district court decision that affirmed an agency denial of his claim for workers' compensation benefits. **REVERSED AND REMANDED.**

Daniel D. Bernstein and William J. Bribresco of William J. Bribresco & Associates, Bettendorf, for appellant.

James L. Drury II, Dakota Dunes, South Dakota, for appellee.

Heard by Vogel, P.J., and Zimmer and Vaitheswaran, JJ.

ZIMMER, J.

Jesus Rios appeals from the denial of his claim for workers' compensation benefits. He contends substantial evidence does not support the agency's conclusion that he failed to establish a causal relationship between his work injury and the disability to his left knee because a deputy workers' compensation commissioner failed to consider the issues of cumulative trauma and aggravation of a pre-existing condition. We reverse and remand for further proceedings.

I. Background Facts & Proceedings

Rios worked for IBP from 1992 until his employment was terminated on February 26, 2002.¹ Rios's work duties included operating a "mule." A mule is a machine used to lift things and move them. The operation of this machine required Rios to stand for as long as eight hours per day and involved repetitive twisting motions of his knees.

Rios testified he experienced left knee swelling beginning in 1998. He sought medical treatment on September 21, 2000, for left knee pain and swelling. He told his treatment providers he had experienced knee pain and swelling two years previously and the swelling had been relieved by a joint tap. Rios was diagnosed with left knee joint effusion with possible meniscal injury. He was treated with anti-inflammatory medications and taken off work for two days.

On March 14, 2001, Rios advised his employer he had experienced left knee pain at work while operating a forklift. Rios saw Dr. David Paul on March 30, 2001. Dr. Paul referred him to Dr. John Langland. On April 10, 2001, Dr. Langland examined Rios and found he was exquisitely tender to palpation of

¹ Rios lost his job for reasons unrelated to this claim.

the medial joint line of his left knee. An MRI was ordered to rule out medial meniscus tear. The MRI was negative for ligamentous tears, but showed a large joint effusion. Dr. Langland performed a left knee tap on April 17, 2001, to rule out an underlying synovial disorder. Rios received a cortisone injection and physical therapy, but did not experience relief from his pain. On June 6, 2001, Dr. Langland performed diagnostic left knee arthroscopic surgery and diagnosed Rios with diffuse left knee synovitis. A later biopsy revealed chronic synovitis that was suspicious for rheumatoid arthritis; however, the results of rheumatoid arthritis panels are not part of the appellate record.

On July 27, 2001, Dr. Joseph Buckwalter performed an open synovectomy of Rios's left knee and diagnosed him with proliferative synovitis and left knee lipoma. Dr. Buckwalter continued to treat Rios after the synovectomy. Following an office visit on March 18, 2002, the doctor suggested a repeat synovectomy. Rios declined further surgery. At that time, Dr. Buckwalter indicated he was unsure of the etiology of Rios's persistent left knee pain and synovitis.

On August 16, 2002, Dr. Richard Neiman, a neurologist, performed an independent medical evaluation of Rios and opined he had a ten-percent whole person impairment under the American Medical Association's *Guides to Evaluation of Permanent Impairment*, Fifth Edition, as a result of his gait disturbance. Dr. Neiman stated Rios would have difficulty performing activities involving repetitive left knee flexion, such as climbing stairs, kneeling, and squatting, and he indicated Rios would be unable to stand for "any length of time." The doctor also stated Rios's impairment and restrictions related at least in part to repetitive trauma from working for IBP.

On July 1, 2003, when Dr. Buckwalter reevaluated Rios, he was not using pain medication and declined additional care. Dr. Buckwalter noted Rios's knee did not bother him other than "the fact that he notices that his gait is not normal." In a July 23, 2003, handwritten response to questions posed by IBP's claims examiner, Dr. Buckwalter checked a box marked "yes" in response to whether he believed Rios's lipoma may have needed surgery even without aggravation caused by work, and he wrote "uncertain but possible." Dr. Buckwalter also commented that he did not evaluate Rios for a work-related problem, and he noted that prolonged standing or walking would likely aggravate Rios's knee problem.

Rios filed a petition for workers' compensation benefits, claiming he was injured on March 30, 2001, due to "[r]epeated motions to operate forklift caused pain, swelling left knee. Bodily motion. Cumulative trauma & aggravation to pre-existing condition."² Following an arbitration hearing, a deputy workers' compensation commissioner determined Rios did not establish a causal relationship between the work injury and the claimed permanent partial disability to the left knee. As a result, the deputy did not address the extent of any permanent disability. The deputy's decision was upheld upon intra-agency appeal and by the district court on judicial review. Rios now appeals.

II. Scope & Standards of Review

The Iowa Administrative Procedure Act, Iowa Code chapter 17A, governs the scope of our review in workers' compensation cases. Iowa Code § 86.26 (2003). Our review of agency actions is limited to the correction of errors at law.

² The date of injury was later amended to March 14, 2001.

Iowa R. App. P. 6.4; *IBP, Inc. v. Harpole*, 621 N.W.2d 410, 414 (Iowa 2001). Under the Act, we will only interfere with the commissioner's decision if it is erroneous under one of the grounds enumerated in the statute and a party's substantial rights have been prejudiced. Iowa Code § 17A.19(10); *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 218 (Iowa 2006). When the district court exercises its judicial review power over the agency decision, it acts in an appellate capacity. *Clark v. Vicorp Rests, Inc.*, 696 N.W.2d 596, 603 (Iowa 2005). When we review the district court's decision, we apply the standards of chapter 17A to determine whether the conclusions we reach are the same as those reached by the district court. *Id.* If our conclusions are the same, we affirm; otherwise we reverse. *Mycogen Seeds v. Sands*, 686 N.W.2d 457, 464 (Iowa 2004).

The party challenging agency action bears the burden of demonstrating the action's invalidity and resulting prejudice. Iowa Code § 17A.19(8)(a). We are bound by the agency's findings of fact if they are supported by substantial evidence when the record is viewed as a whole. *Id.* § 17A.19(10)(f); *Mycogen Seeds*, 686 N.W.2d at 464. Substantial evidence is defined as evidence of the quality and quantity "that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be serious and of great importance." Iowa Code § 17A.19(10)(f)(1).

Factual findings regarding the award of benefits are within the commissioner's discretion, so we are bound by the commissioner's findings of fact if they are supported by substantial evidence. *Mycogen Seeds*, 686 N.W.2d at 465. Because factual determinations are within the discretion of the agency,

so is its application of law to the facts. *Clark*, 696 N.W.2d at 604. We will only reverse the agency's application of the law to the facts if we determine its application was "irrational, illogical, or wholly unjustifiable." Iowa Code § 17A.19(10)(m); *Finch v. Schneider Specialized Carriers, Inc.*, 700 N.W.2d 328, 331 (Iowa 2005).

III. Discussion

In her ruling denying Rios's claim for benefits, the deputy commissioner stated, "It is concluded that claimant has not established a causal relationship between his work injury and claimed permanent partial disability to the left knee." In reaching this conclusion, the deputy commissioner discounted the opinion of Dr. Neiman, Rios's evaluating physician. The deputy noted Dr. Neiman was a neurologist and could not fairly be expected to possess the expertise in dealing with orthopedic problems that would be expected in an orthopedic physician. In addition, the deputy stated that although Dr. Neiman opined repetitive trauma related to work caused Rios's impairment, "he offers no reasoning supporting that conclusion," and "[i]n the absence of such reasoning, the doctor's opinion testimony is suspect and entitled to little weight."

Rios contends the deputy commissioner's decision is not supported by substantial evidence because the deputy commissioner failed to consider the issues of cumulative trauma and aggravation of a pre-existing condition in

rejecting his claim.³ Upon review of the record, we believe the claimant's argument has merit.

As part of his petition for workers' compensation benefits, Rios pleaded cumulative trauma and aggravation of a pre-existing condition, and there is clearly evidence in the record relevant to these claims. Dr. Buckwalter, Rios's treating orthopedic physician, was uncertain of the etiology of Rios's condition. However, in a handwritten response to a letter written by an IBP claims examiner in August 2001, the doctor indicated Rios's condition was not caused by work, but was aggravated by work. In addition, in a response to a July, 23, 2003 letter from one of the employer's claims examiners, Dr. Buckwalter wrote that Rios's knee problem is most likely aggravated by prolonged walking and standing. In concluding Rios had not established a causal relationship between his work and his left knee condition, the deputy commissioner did not make factual findings regarding the issue of aggravation of Rios's left knee condition. IBP contends substantial evidence supports the deputy commissioner's decision and argues that even if Rios's work with IBP aggravated a pre-existing condition to his left knee, there is insufficient evidence to establish the aggravation is anything but slight, and, at most, temporary.

Upon review of the record, we conclude the arbitration decision does not make clear whether Rios's pleaded claim of aggravation of a pre-existing condition was considered. Because we find the record inadequate to allow judicial review of the agency's action on that claim, we reverse the decision of the

³ The district court concluded the commissioner's rejection of a causal connection between Rios's work injury and his claimed disability encompassed all of Rios's theories, including aggravation of a pre-existing condition.

district court and remand to the agency for consideration and resolution of Rios's claim of aggravation of a pre-existing condition. By this decision, we express no view of how the agency should resolve this matter on remand.

REVERSED AND REMANDED.