

IN THE COURT OF APPEALS OF IOWA

No. 6-328 / 05-1639
Filed June 28, 2006

KEVIN SEITZ,
Petitioner-Appellant,

vs.

THE DEXTER COMPANY AND EMC INSURANCE COMPANIES,
Respondents-Appellees.

Appeal from the Iowa District Court for Polk County, Robert J. Blink,
Judge.

A workers' compensation claimant appeals from the district court's order
on judicial review affirming the agency's decision. **AFFIRMED.**

Martin Ozga of Max Schott & Associate, P.C., Des Moines, for appellant.

Steven Ort of Bell & Ort, New London, for appellees.

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

VOGEL, P.J.

Kevin Seitz appeals from the order of the district court affirming on judicial review the denial of workers' compensation benefits by the Iowa Workers' Compensation Commissioner ("the commissioner"). Because we find substantial evidence on the record supports the decision of the commissioner, we affirm the agency's decision and district court's ruling on judicial review.

Seitz was employed by the Dexter Company on November 5, 2001, when he alleges he, while wearing a hardhat, walked into a steel beam and sustained injuries to his head and neck. After filing a claim with the Iowa Workers' Compensation Commission in March 2002 and a contested arbitration hearing in June 2004, the deputy commissioner issued a decision in July 2004 denying benefits to Seitz. The commissioner made findings of fact concerning numerous instances where Seitz had lied or otherwise misrepresented several facts, including his injury history on his application with Dexter, his Social Security number and birth date in a previous workers' compensation claim, and his legal name in this case. After determining that Seitz was completely without credibility, the commissioner found that he failed to carry his burden to prove by a preponderance of the evidence that his injury "arose from or in the course of" his employment with Dexter and denied benefits. The commissioner placed much emphasis on the fact that no one witnessed Seitz's injury, that he did not report it immediately or seek immediate medical attention, and that he had a history of previous injuries or medical problems consistent with his current issues. The intra-agency appeal affirmed the commissioner's arbitration decision, and Seitz sought judicial review by the district court. Finding substantial evidence on the

record to support the commissioner's factual findings and decision, the district court also affirmed the denial of benefits, from which Seitz now appeals.

We apply the standards of Iowa Code section 17A.10 to the agency's decision to determine whether our conclusions are the same as those reached by the district court. *Univ. of Iowa Hosp. & Clinics v. Waters*, 674 N.W.2d 92, 95 (Iowa 2004). Whether an injury arose out of and in the course of employment presents a mixed question of law and fact. *Hawk v. Jim Hawk Chevrolet-Buick, Inc.*, 282 N.W.2d 84, 87 (Iowa 1979). A question of fact is presented by the operative events that give rise to the injury. *Id.* Unless the events are undisputed, the commissioner must resolve the dispute and determine the facts leading to the injury. *Id.* On judicial review, courts are bound by the commissioner's resolution of the operative facts if supported by substantial evidence in the record as a whole. *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 218 (Iowa 2006) (citing *Excel Corp. v. Smithart*, 654 N.W.2d 891, 896 (Iowa 2002)). In other words, the question on appeal is not whether the evidence supports a different finding than the finding made by the commissioner, but whether the evidence "supports the findings actually made." *St. Luke's Hosp. v. Gray*, 604 N.W.2d 646, 649 (Iowa 2000).

Seitz argues on appeal that the commissioner's finding that he did not suffer a work-related injury is not supported by substantial evidence on the record. While Seitz focuses on the evidence presented at the hearing attesting to medical issues, he ignores the commissioner's finding that his testimony regarding the alleged injury was completely incredible. Although Seitz was admitted to the hospital the day after his claimed injury, there is no conclusive

diagnosis other than the self-reported symptoms. A CT scan during his admission revealed no new abnormalities, and the attending medical personnel noted that he had no bruising on his head and his muscle strength was intact. He was discharged the following day. Several doctors noted through Seitz's course of treatment after November 5, 2001, that he suffered from problems with disc deterioration in his cervical spine and possible carpal tunnel syndrome. Only Dr. McGuire causally-linked this to the alleged injury and this conclusion was not made until a July 2003 letter to Seitz's attorney. Some of Seitz's treating physicians, Dr. Larson and Dr. Buck, harbored suspicions that Seitz was exaggerating symptoms or malingering. All of Seitz's medical treatment was given on his self-reporting of an unwitnessed injury and alleged resulting symptoms. Although there is evidence through both Seitz and Dr. McGuire that Seitz had some medical problems, our task is not to reweigh the evidence or gauge whether other factual findings are supported by the record. *Robbennolt v. Snap-On Tools Corp.*, 555 N.W.2d 229, 234 (Iowa 1996).

Due to the utter discounting of Seitz's testimony and statements regarding the alleged injury, substantial evidence on the record supports the commissioner's factual finding that Seitz did not suffer an injury on November 5, 2001, arising from or in the course of Seitz's employment with Dexter. See *E.N.T. Assocs. v. Collentine*, 525 N.W.2d 827, 830 (Iowa 1994) (stating that it is within the province of the workers' compensation commissioner to determine the credibility of the witnesses). We defer to the commissioner's credibility determinations and conclude substantial evidence supports the finding that no work-related injury occurred. We affirm.

AFFIRMED.