

**IN THE COURT OF APPEALS OF IOWA**

No. 7-203 / 06-1059  
Filed May 9, 2007

**ALCOA,**  
Plaintiff-Appellant,

**vs.**

**STEVE MEIER,**  
Defendant-Appellee.

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Appeal from the Iowa District Court for Scott County, Hobart Darbyshire,  
Judge.

Alcoa appeals from the district court decision that affirmed the decision of  
the workers' compensation commissioner finding Steve Meier sustained  
permanent disability. **AFFIRMED.**

Cameron Davidson of Lane & Waterman L.L.P., Davenport, for appellant.  
Allan Hartsock of Nelson, Keys & Keys, P.C., Rock Island, Illinois, for  
appellee.

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

**ZIMMER, J.**

Alcoa appeals from the district court decision that affirmed the decision of the workers' compensation commissioner finding Steve Meier sustained permanent disability. The employer contends the record does not contain expert testimony that Meier suffered a permanent injury. Alcoa also contends Meier did not present substantial evidence of permanent injury or permanent disability. We affirm.

***I. Background Facts and Proceedings***

Meier works as a maintenance person at the Alcoa plant. On June 26, 2000, he was exposed to chlorine gas while working on a regulator. He immediately experienced difficulty breathing, blurry vision, coughing, and his face was burning. Meier stayed in the hospital for two days and came under the care of Dr. Humphrey Wong, a pulmonary specialist. Meier saw Dr. Wong approximately every three months until October 2001. At that time, Dr. Wong told Meier he was at his maximum healing. Dr. Wong continued to see Meier every six months for a while and then began seeing his patient once every year.

On November 20, 2001, Meier was examined at his employer's request by Dr. Terrence Moisan, who concluded Meier only suffered "transient tracheobronchitis and oropharyngitis/conjunctivitis from the chlorine exposure," and the "temporary tracheobronchitis . . . may have lasted a few weeks." Dr. Moisan found no permanent physiologic abnormalities, but he recommended that Meier wear respiratory protection around irritants while at work.

Dr. Thomas Hughes also examined Meier and reviewed his medical records. Dr. Hughes concluded Meier's pulmonary function tests indicated no

evidence of lung damage and no evidence of any obstructive pulmonary disease. Dr. Hughes also concluded it was “certainly possible, if not likely, that Mr. Meier has irritant-induced asthma, which is also called reactive airway dysfunction syndrome.”

Dr. Wong, Meier’s treating physician, noted on August 2, 2000, that Meier “has had inhalational lung injury from the chlorine with some residual dyspnea” and concluded Meier “may be left with some more chronic sensitivity to fumes.” On September 20, 2000, Dr. Wong noted Meier continued to experience symptoms and irritant bronchitis most likely related to chlorine exposure, and pulmonary function testing revealed “some mild restrictive component.” On May 24, 2001, Dr. Wong concluded Meier continued to experience coughing, shortness of breath, and restrictive lung capacity when he exercised, and the doctor observed it may take twelve to eighteen months for Meier to reach maximal medical improvement. By October 10, 2001, Dr. Wong concluded Meier “may be approaching maximal medical benefit at this point,” but he was still experiencing symptoms, he still had “significant sensitivity to fumes,” and he still wore an air pack at work. At that time, Dr. Wong continued to provide Meier with inhalants and other medication.

In October 2002 Dr. Wong concluded Meier suffered from “chemically induced reactive airways disease,” and he stated Meier continued to have sensitivities that may be long lasting. Although Dr. Wong observed Meier was slowly improving, he continued to recommend the use of an inhaler, other medication, and restrictions at work.

Meier filed a petition for workers' compensation benefits, claiming he was injured on June 26, 2000, due to exposure to chlorine gas. At the time of Meier's arbitration hearing, he was still subject to some work restrictions because of his chlorine exposure. He is only allowed to work in temperatures between twenty and ninety degrees Fahrenheit, he is restricted from working in the ingot plant, he is not supposed to work in the hot line when the mill is running because of fumes, and he is not supposed to work in areas that are dusty. Meier testified he does not go to swimming pools or use his hot tub because the chlorine irritates his eyes and lungs. He avoids places where there is smoke of any type. He avoids grilling on his deck due to the smoke, and he stopped using his motorcycle because his eyes and nostrils became too dry. Meier testified he cannot work out as often because his breathing has been affected. He also said he cannot mop the floor with ammonia or bleach products because the fumes make it difficult for him to breathe and cause his nose and eyes to burn. Following the hearing, a deputy workers' compensation commissioner awarded Meier permanent partial disability benefits. The deputy's decision was upheld upon intra-agency appeal and by the district court on judicial review. Alcoa appeals.

## ***II. Scope and Standards of Review***

The Iowa Administrative Procedure Act, Iowa Code chapter 17A, governs the scope of review in workers' compensation cases. Iowa Code § 86.26 (1999). Our review of agency actions is limited to the correction of errors at law. 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. *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).

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.* 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." *Id.*

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. *Id.* 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." *Finch v. Schneider Specialized Carriers, Inc.*, 700 N.W.2d 328, 331 (Iowa 2005).

### **III. Discussion**

Alcoa concedes Meier suffered temporary disability as a result of his chlorine gas exposure; however, the employer argues substantial evidence does not support the agency's conclusion that Meier suffered a permanent injury. Upon review of the record, we disagree.

In his arbitration decision, the commissioner found Dr. Moisan's report was inconclusive, and he determined Dr. Hughes was a "one-time examiner who was employed to evaluate [Meier] and had no responsibilities toward his treatment." The commissioner placed substantial reliance on the records submitted by Meier's treating physician, Dr. Wong, and Dr. Wong's conclusion Meier had chemically induced reactive airways disease with long lasting sensitivities. The commissioner concluded Meier sustained a permanent injury as a result of the chlorine exposure based on "Dr. Wong's repeated prognostication and fear that [Meier] either is or will be sensitized to various vapors and fumes in the future." The commissioner also relied on evidence from Meier regarding the impact of his condition on his work and daily living activities.

It is the commissioner's duty as trier of fact to determine the credibility of witnesses, weigh the evidence, and decide the facts in issue. *See Dunlavey v. Econ. Fire & Cas. Co.*, 526 N.W.2d 845, 853 (Iowa 1995). We find substantial evidence in the record supports the commissioner's finding that Meier's disability as a result of the chlorine gas exposure was permanent. We also conclude sufficient expert evidence was produced to support the conclusions of the commissioner and the district court.

**IV. Conclusion**

Because we find the record contains substantial evidence supporting the commissioner's finding that Meier suffered a permanent disability, we affirm the decision of the district court.

**AFFIRMED.**