

**IN THE COURT OF APPEALS OF IOWA**

No. 7-473 / 06-1118  
Filed August 22, 2007

**DOMINICK DAMIANO,**  
Plaintiff-Appellee,

**vs.**

**UNIVERSAL GYM EQUIPMENT and  
NATIONAL UNION INSURANCE,**  
Defendants-Appellants.

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Appeal from the Iowa District Court for Linn County, Amanda Potterfield,  
Judge.

Employer appeals from a district court judgment entered to enforce an  
award of workers' compensation benefits. **AFFIRMED.**

Chad M. Von Kampen of Simmons, Perrine, Albright & Ellwood, P.L.C.,  
Cedar Rapids, for appellant.

Thomas M. Wertz and Matthew D. Dake of Wertz Law Firm, P.C., Cedar  
Rapids, for appellee.

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

**ZIMMER, J.**

Universal Gym Equipment and National Union Insurance (Universal) appeal from a district court judgment entered pursuant to Iowa Code section 86.42 (2005) to enforce an award of workers' compensation benefits to Dominick Damiano. We affirm the judgment of the district court.

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

Dominick Damiano was injured on August 3, 1993, while working for Universal. He filed a workers' compensation claim and was awarded benefits on May 4, 1997. The award was affirmed by the commissioner on August 12, 1999, and by the district court on judicial review. Damiano appealed, claiming the commissioner's decision was not supported by substantial evidence and the commissioner should have awarded him penalty benefits pursuant to Iowa Code section 86.13. We affirmed. *Damiano v. Universal Gym Equip.*, No. 00-872 (Iowa Ct. App. April 27, 2001). Damiano sought further review before the Iowa Supreme Court, which was denied on July 27, 2001.

Damiano filed a motion for judgment on April 5, 2006, requesting the district court to enter a judgment pursuant to Iowa Code section 86.42 to enforce the workers' compensation award. Universal resisted, arguing the motion for judgment was untimely and subject to a credit pursuant to section 85.38(2). The district court declined to consider Universal's arguments and entered judgment in favor of Damiano, finding our supreme court's decisions in *Rethamel v. Havey*, 679 N.W.2d 626 (Iowa 2004), (*Rethamel I*) and *Rethamel v. Havey*, 715 N.W.2d 263 (Iowa 2006), (*Rethamel II*) "clearly instructed the district courts that there is

only one answer to a Motion for Judgment under Iowa Code section 86.42 and that answer is ‘Yes.’”

Universal appeals, claiming the district court erred in entering judgment in favor of Damiano. It argues the motion for judgment is barred by the statute of limitations and laches. Universal further argues it is entitled to a section 85.38(2) credit that exceeds the unpaid benefits converted into a judgment by the district court.

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

We review district court judgments entered pursuant to Iowa Code section 86.42 to enforce workers’ compensation awards for correction of errors at law. *Rethamel II*, 715 N.W.2d at 266.

### ***III. Merits.***

Iowa Code section 86.42 provides in relevant 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, . . . 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. The decree or judgment, . . . has the same effect and in all proceedings in relation thereto is the same as though rendered in a suit duly heard and determined by the court.

Section 86.42 sets forth “a summary method for transforming a workers’ compensation award into an enforceable judgment” for collection purposes. *Id.*; *Rethamel I*, 679 N.W.2d at 627. The district court performs a “ministerial function” when rendering judgment on a commissioner’s award. *Rethamel I*, 679 N.W.2d at 629. The district court must enter judgment in accordance with the

workers' compensation award "because the rights of the claimant have already been established by the time the application to enter judgment has been made." *Rethamel II*, 715 N.W.2d at 266. "The court has no power to change the award, review the award, reverse the award, modify the award, remand the case to the commissioner, or construe the workers' compensation statute." *Id.* Thus, "the district court's role at the time of entry of judgment is limited to 'construing'" the award, which involves "analyzing and explaining the meaning of the commissioner's written award decision." *Id.*

Section 86.42 does not provide a time limit within which a "party in interest" must request entry of judgment on a workers' compensation award. Universal consequently contends the general statute of limitations set forth in section 614.1(4) should apply. We do not agree. Workers' compensation is statutory. *Downs v. A & H Constr. Ltd.*, 481 N.W.2d 520, 527 (Iowa 1992). The statute must not be artificially expanded by reading something into it that is not within the scope of the language used. *Id.* Universal's statute of limitations argument would have required the district court to construe and expand the statute, which the district court correctly recognized it had no authority to do pursuant to *Rethamel I*, 679 N.W.2d at 628, and *Rethamel II*, 715 N.W.2d at 266. We likewise decline to expand the workers' compensation statute by finding the general statute of limitations set forth in section 614.1(4) applies to section 86.42 proceedings.

If the legislature had desired to impose a statute of limitations on section 86.42, it certainly knew how to provide for one. See, e.g., Iowa Code § 85.26 (requiring that original proceedings for benefits be brought within two years from

the date of the injury). Moreover, the public policy reasons supporting the application of statutes of limitations are not present in the “summary method” for converting awards into judgments where the “rights of the claimant have already been established . . . .” *Rethamel II*, 715 N.W.2d at 266; *Schulte v. Wageman*, 465 N.W.2d 285, 286 (Iowa 1991) (finding statutes of limitations are “practical and pragmatic devices used to spare our courts from” the burden of litigating “stale claims, and the citizen from the need to defend after memories have long since faded, witnesses have died or disappeared, and evidence lost”). We believe our holding in this case is consistent with the “underlying purpose of the workers’ compensation statute – to benefit workers and their dependents insofar as the statute permits.” *Heartland Specialty Foods v. Johnson*, 731 N.W.2d 397, 402 (Iowa Ct. App. 2007) (internal quotation omitted).

We further conclude the district court did not err in rejecting Universal’s claims that the doctrine of laches barred Damiano’s motion for judgment and that it was entitled to a section 85.38(2) credit for long-term disability payments made to Damiano pursuant to an employer-funded group plan. The doctrine of laches is “largely factual” and would have required the court to consider new evidence. *Henderson v. Millis*, 373 N.W.2d 497, 504 (Iowa 1985). The section 85.38(2) credit issue was not raised at the hearing before the commissioner.<sup>1</sup> Universal thus submitted additional evidence to the district court during the section 86.42 proceeding to support its claim for a credit.

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<sup>1</sup> Damiano argues Universal waived the right to a section 85.38(2) credit because they did not litigate the issue during the administrative proceedings. We need not and do not address this argument because of our conclusion that the district court correctly denied Universal’s claim for a credit due to the narrow scope of the district court’s authority when entering a section 86.42 judgment.

Consideration of “new evidence not previously raised” goes beyond the district court’s “ministerial function” in entering judgment pursuant to section 86.42. *Rethamel II*, 715 N.W.2d at 265; *see also Rethamel I*, 679 N.W.2d at 628 (concluding the district court erred by considering additional evidence and modifying the award). Therefore, the district court correctly rejected Universal’s arguments that the motion for judgment should be dismissed. The district court also correctly denied Universal’s request that the case be remanded to the commissioner for a hearing on the section 85.38(2) credit issue because remanding implies the court “reviewed the award,” which is outside the scope of its authority in section 86.42.<sup>2</sup> *Rethamel II*, 715 N.W.2d at 267 (finding the district court erred in remanding the case to the commissioner for an evidentiary hearing).

#### **IV. Conclusion.**

We conclude the district court did not err in entering judgment in favor of Damiano on the workers’ compensation award. The district court correctly recognized it lacked authority under section 86.42 to dismiss the motion for

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<sup>2</sup> Universal argues a conflict exists between *Krohn v. State*, 420 N.W.2d 463 (Iowa 1988), and the *Rethamel* cases because under *Krohn* “an employer can unilaterally satisfy its liabilities from a workers’ compensation award through” a section 85.38(2) credit, which it contends the *Rethamel* cases prohibit the district court from acknowledging. We find no conflict between these cases. We first note *Krohn* merely observes “section 85.38(2) appears to provide a method by which an employer may act unilaterally to satisfy” its obligation for medical and hospital expenses. *Krohn*, 420 N.W.2d at 464-65 (emphasis added). Moreover, as the district court aptly observed, “the employer who takes that unilateral action” simply exposes itself to a “risk for entry of judgment under Iowa Code section 86.42.” Finally, we believe the court’s holding in *Krohn* is consistent with the *Rethamel* cases. *See Rethamel I*, 679 N.W.2d at 628-29 (concluding district court erred in modifying the award to provide for medical expenses to be paid directly to the claimant); *Krohn*, 420 N.W.2d at 464-65 (finding district court erred in entering a judgment that required a different method for payment of medical expenses than the method provided for in the workers’ compensation award).

judgment as barred by the statute of limitations and the doctrine of laches or as satisfied through a section 85.38(2) credit. The district court also correctly recognized it lacked authority under section 86.42 to remand the case to the commissioner on the section 85.38(2) credit issue. Finally, we decline to expand section 86.42 to provide for a statute of limitations within which a claimant must request the district court to enter a judgment to enforce an award of workers' compensation benefits.

**AFFIRMED.**