IN THE COURT OF APPEALS OF IOWA

No. 8-164 / 07-1496
Filed April 9, 2008

OTTUMWA REGIONAL HEALTH CENTER,
Petitioner-Appellee,

vs.

CATHY MITCHELL,
Respondent-Appellant.

Appeal from the Iowa District Court for Polk County, Michael D. Huppert, Judge.

Employee appeals from a district court judicial review ruling reversing the appeal decision of the workers' compensation commissioner. **AFFIRMED.**

Dennis W. Emanuel and Michael O. Carpenter of Webber, Gaumer & Emanuel, P.C., Ottumwa, for appellant.

Gayla R. Harrison of Harrison, Moreland, Webber & Woods, P.C., Ottumwa, for appellee.

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

MILLER, J.

Cathy Mitchell appeals from a district court judicial review ruling reversing the appeal decision of the workers' compensation commissioner. We affirm the judgment of the district court.

I. BACKGROUND FACTS AND PROCEEDINGS.

Mitchell was hired by Ottumwa Regional Health Center (Ottumwa Regional) as a housekeeping aide on June 16, 2003. She worked in the obstetrics unit cleaning the birthing rooms, locker rooms, kitchenettes, and hallways.

On September 5, 2003, Mitchell was cleaning with her co-worker, Rita Jacobs, when she received a page to change the linen and mattress in a patient's room. Mitchell walked into the room, and as she approached the patient's bed, her right foot went out from under her causing her to fall on her right side. After Mitchell fell, she looked at the floor and did not see "any water or anything. . . . Other than just looking slick, there was nothing on it." She did not know what caused her to fall.

Jacobs was in the hallway outside of the patient's room when Mitchell fell. Mitchell came out of the room and told Jacobs that she had slipped by the patient's bed. Mitchell continued to work after she fell, although later in the day, she told Jacobs that her back or neck hurt.

Mitchell eventually sought medical treatment for lower back pain. She was diagnosed with "permanent aggravation of a pre-existing condition of non-

verifiable radiculopathy and permanent aggravation of a condition of spinal stenosis" as a result of her fall on September 5, 2003.

Mitchell sought workers' compensation benefits from her employer. Following an arbitration hearing, the deputy workers' compensation commissioner determined her injury arose out of and in the course of her employment with Ottumwa Regional because she "was engaged in her work duties walking on a floor belonging to the employer when her right foot went out from under her causing her to fall." The deputy awarded Mitchell healing period benefits, permanent partial disability benefits, and medical expenses. Ottumwa Regional appealed, and the workers' compensation commissioner affirmed and adopted the deputy's decision.

Ottumwa Regional filed a petition for judicial review. The district court reversed the agency's decision, concluding it erred in applying the positional-risk rule in determining that Mitchell's injury arose out of her employment with Ottumwa Regional.

Mitchell appeals. She claims the district court erred in reversing the agency's determination that her injury arose out of her employment.

II. SCOPE AND STANDARDS OF REVIEW.

The Iowa Administrative Procedure Act, chapter 17A of the 2007 Iowa Code, governs the scope of our review in workers' compensation cases. Iowa Code § 86.26; *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 218 (Iowa 2006). "Under the Act, we may 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*, 710 N.W.2d at 218. The district court acts in an appellate capacity to correct errors of law on the part of the agency. *Grundmeyer v. Weyerhaeuser Co.*, 649 N.W.2d 744, 748 (Iowa 2002). When reviewing the district court's decision, we apply the standards of chapter 17A to determine whether our conclusions are the same as those reached by the district court. *Clark v. Vicorp Rests., Inc.*, 696 N.W.2d 596, 603 (Iowa 2005).

"In determining the proper standard of review, we must first identify the nature of the claimed basis for reversal of the Commissioner's decision." *Lakeside Casino v. Blue*, 743 N.W.2d 169, 173 (Iowa 2007). In the judicial review proceedings, Ottumwa Regional claimed the agency incorrectly determined that Mitchell's injury arose out of her employment. "This issue 'presents a mixed question of law and fact.'" *Id.* (citation omitted). There is no dispute as to the operative facts in this case. Instead, the dispute focuses on whether the agency correctly applied the law to the facts. This aspect of the agency's decision-making process can be affected by various grounds of error, such as an erroneous interpretation of law or irrational, illogical, or wholly unjustifiable application of law to the facts. *Id.*; *see also* Iowa Code § 17A.19(10)(c), (m).

We give the agency's interpretation of workers' compensation law no deference and are free to substitute our own judgment. *Lakeside Casino*, 743 N.W.2d at 173; *see also Finch v. Schneider Specialized Carriers, Inc.*, 700 N.W.2d 328, 330 (Iowa 2005) ("The interpretation of workers' compensation statutes and related case law has not been clearly vested by a provision of law in

the discretion of the agency."). However, application of workers' compensation law to the facts as found by the agency is clearly vested in the agency. *Lakeside Casino*, 743 N.W.2d at 173. We may therefore reverse the agency's application of the law to the facts only if it is "irrational, illogical, or wholly unjustifiable." *Id.*

III. MERITS.

In order for an injury to be compensable under our workers' compensation statute, "it must occur both in the course of and arise out of employment." *Miedema v. Dial Corp.*, 551 N.W.2d 309, 311 (Iowa 1996). These two tests are separate and distinct and both must be satisfied in order for an injury to be compensable. *Id.*

"The words 'in the course of' refer to the time, place, and circumstances of the injury." *Id.* "To satisfy this requirement, the injury must take place 'within the period of the employment, at a place where the employee reasonably may be, and while the employee is fulfilling work duties or engaged in doing something incidental thereto.'" *Lakeside Casino*, 743 N.W.2d at 174 (citation omitted). There is no dispute in this case that Mitchell's injury occurred in the course of her employment with Ottumwa Regional. However, "[i]njuries that occur in the course of employment or on the employer's premises do not necessarily arise out of that employment." *Miedema*, 551 N.W.2d at 311.

The term "arising out of" refers to the cause and origin of the injury. *Id.* This element requires proof that a causal connection exists between the conditions of the employment and the injury. *Lakeside Casino*, 743 N.W.2d at 174. Thus, "the injury must not have coincidentally occurred while at work, but

must in some way be caused by or related to the working environment or the conditions of [the] employment." *Miedema*, 551 N.W.2d at 311. Stated another way, "[t]he injury must be a natural incident of the work. This means it must be a rational consequence of a hazard connected with the employment." *Cedar Rapids Cmty. Sch. v. Cady*, 278 N.W.2d 298, 299 (Iowa 1979).

In *Lakeside Casino*, our supreme court discussed two different doctrines utilized by courts in determining whether an injury arises out of employment: the actual-risk doctrine and the positional-risk doctrine. 743 N.W.2d at 174-76. Under the actual-risk doctrine, an injury is compensable "'as long as the employment subjected [the] claimant to the actual risk that caused the injury.'" *Id.* at 176 (quoting 1 Arthur Larson & Lex K. Larson, *Larson's Workers' Compensation Law* § 3.04, at 3-5 (2007) [hereinafter Larson]). This doctrine was adopted by the court in *Hanson v. Reichelt*, 452 N.W.2d 164, 168 (Iowa 1990).

The positional-risk doctrine, on the other hand, provides that "'[a]n injury arises out of the employment if it would not have occurred *but for* the fact that the conditions and obligations of the employment placed claimant in the position where he would be injured.'" *Lakeside Casino*, 743 N.W.2d at 176 (quoting Larson § 3.05, at 3-6). This doctrine supports compensation in situations where "the only connection of the employment with the injury is that its obligations placed the employee in the particular place at the particular time" when the employee "was injured by some neutral force, meaning by 'neutral' neither personal to the claimant nor distinctly associated with the employment."[1] Larson

[1] There are three categories in which all risks causing injury to a workers' compensation claimant can be placed: (1) risks distinctly associated with the employment, which are

§ 3.05, at 3-6. Our supreme court declined to adopt the positional-risk doctrine in *Lakeside Casino*, 743 N.W.2d at 177.

In determining that Mitchell's injury arose out of her employment, the agency stated:

> She had been advised to go to this particular room to perform her housekeeping duties. In walking across the room, her right foot slipped and it went out from under her causing her to fall. . . . [Mitchell] was engaged in her work duties walking on a floor belonging to the employer when her right foot went out from under her causing her to fall. It is concluded that [Mitchell] has established she sustained an injury arising out of and in the course of her employment.

It appears the agency, like the commissioner in *Lakeside Casino*, erroneously interpreted Iowa law to allow compensation under the positional-risk doctrine. *See id.* at 176-77 (stating the commissioner erroneously applied the positional-risk rule in determining the employee's injury arose out of her employment by finding "[w]hen injured, [she] was on duty and on the employer's premises. Her employment compelled her to traverse those stairs"). We therefore agree with the district court that the agency erred in applying the positional-risk rule in concluding that Mitchell satisfied the arising-out-of element of her claim for benefits.

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universally compensable; (2) risks personal to the claimant, which are universally noncompensable; and (3) "neutral" risks, which are risks having no particular employment or personal character. Larson, ch. 4, scope, at 4-1. It is within the last category, according to Larson, that most controversy in modern compensation law occurs. *Id.* A particular source of injury may be classified as "neutral" where the nature of the cause of harm may simply be unknown. *Id.* § 4.03, at 4-3. The most common example of such a case is an unexplained fall in the course of employment where, for instance, an employee falls while walking across a level floor for no discoverable reason. *Id.* § 7.04[1][a], at 7-28. "[M]ost courts confronted with the unexplained-fall problem have seen fit to award compensation" under the positional-risk doctrine. *Id.* at 7-29. "A substantial minority, however, deny compensation" in such cases. *Id.*

We also agree with the district court that the undisputed facts in this case establish that Mitchell's injury arose from an unexplained fall,[2] which does not appear to be compensable given that "Iowa has not adopted the positional-risk rule." *Lakeside Casino*, 743 N.W.2d at 177; *see also* Larson § 7.04[1][a], at 7-28 to 7-29 (stating that "[i]n a pure unexplained-fall case, there is no way in which an award can be justified as a matter of causation theory" except by recognizing the positional-risk rule). As the deputy noted, Mitchell testified that she did not know why she fell. She speculated "it may have been that my foot stumbled or it may have been that I hit the side of the bed. I don't know." She was not carrying anything in her hands when she walked into the patient's room. She examined the floor after she fell, but she did not see anything on it that would have caused her to fall. The floor she was walking across was level, dry, and unobstructed.[3] Mitchell argues, however, that her injury arose out of her employment because it was caused by or related to conditions present in her employment, such as "extensive walking" and "being on her feet all day." We do not agree.

In *McIlravy v. N. River Ins. Co.*, 653 N.W.2d 323, 331 (Iowa 2002), our supreme court determined an employer had a reasonable basis to deny its employee's workers' compensation claim where the employee's knee injury

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[2] When the agency commits an error in applying the law to facts, we generally remand for a new decision unless it can be made as a matter of law. *Meyer*, 710 N.W.2d at 219-20 n. 1. The reviewing court may determine facts as a matter of law only when, as here, there is no dispute in the relevant evidence and reasonable minds could not reach different inferences from the evidence. *Id.* at 225; *see also Armstrong v. State of Iowa Bldgs. & Grounds*, 382 N.W.2d 161, 165 (Iowa 1986).

[3] Mitchell testified that the floor "look[ed] slick" and "shiny" because it had been buffed the week before. However, as the district court noted, the deputy did not find that Mitchell fell because the floor was slick. Furthermore, at no point in Mitchell's testimony did she contend she fell because the floor was slick. Instead, when questioned as to what caused her to fall, she maintained, "I don't know."

occurred as he was walking across a level floor. The court noted that the employee "was not doing anything at the time [he was injured] that he would not have been doing outside of his employment." *McIlravy*, 653 N.W.2d at 331. Thus, it was reasonable for the employer to conclude that the employee's injury "coincidentally occurred while at work." *Id.*; *see also Gilbert v. USF Holland, Inc.*, 637 N.W.2d 194, 200 (Iowa 2001) (determining that if a neck injury occurred when the employee straightened up after bending over to sign an invoice it "would arguably be coincidental to work and would not necessarily be related to the conditions of employment" and thus would not be compensable); *Miedema*, 551 N.W.2d at 312 (concluding a back injury that occurred at work when an employee twisted to flush the toilet did not arise out of his employment).

Although "our workers' compensation law does not require the work place activity to involve more hazard or exertion than a claimant's activities outside the work place as a condition of compensability," this does not mean "an injury sustained while walking, without any additional evidence connecting the injury in some way to the work place environment, is compensable." *McIlravy*, 653 N.W.2d at 331. Mitchell did not offer any evidence connecting her injury in some way to her work place environment beyond her testimony that her job required her to walk "everywhere . . . from room to room" and to be "on [her] feet" for approximately seven hours per day. *See, e.g., id.* at 332 (stating evidence from a physician opining that the injury was work-related because the employee's "profession involved heavy lifting activities, and the nature of his profession placed him at greater risk for knee injuries than other professions" could establish

that the injury arose out of his employment). We therefore conclude, like the district court, that Mitchell did not establish that her back injury arose out of her employment at Ottumwa Regional. *But see Lakeside Casino*, 743 N.W.2d at 177 (concluding employee's ankle injury arose out of her employment where she stumbled as she was walking down stairs at her place of work).

IV. CONCLUSION.

We conclude the agency erred in applying the positional-risk rule in concluding that Mitchell satisfied the arising-out-of element of her claim for benefits. We further conclude that Mitchell did not establish that her back injury arose out of her employment at Ottumwa Regional. In so concluding, we recognize that our workers' compensation statute is "not a general health insurance policy that extends to any and all injuries that happen to occur while on the job, but rather exists to compensate workers who are injured as a result of a condition of their employment." *Miedema*, 551 N.W.2d at 312. The judgment of the district court reversing the agency's determination that Mitchell's injury arose out of her employment is affirmed.

AFFIRMED.