IN THE COURT OF APPEALS OF IOWA

No. 1-445 / 11-0030
Filed August 10, 2011

DANIEL ARROWOOD,
Petitioner-Appellant/Cross-Appellee,

vs.

MAYTAG COMPANY,
Respondent-Appellee/Cross-Appellant.

Appeal from the Iowa District Court for Polk County, Scott D. Rosenberg, Judge.

Daniel Arrowood appeals from the district court's ruling on judicial review affirming the workers' compensation commissioner's decision. The employer cross-appeals. **AFFIRMED.**

Ryan T. Beattie of Beattie Law Firm, P.C., Des Moines, for appellant.

Andrew T. Tice of Ahlers & Cooney, P.C., Des Moines, for appellee.

Considered by Sackett, C.J., and Doyle and Danilson, JJ.

DOYLE, J.

Daniel Arrowood appeals from an adverse ruling on his petition for judicial review of the final agency decision of the Iowa Workers' Compensation Commissioner, which found Arrowood did not establish he sustained a work-related injury. He argues the district court erred in its application of the abuse of discretion and substantial evidence standards of review when it failed to reverse the commissioner's decision. His abuse-of-discretion argument is founded on his claim the commissioner failed to consider Arrowood's testimony in deciding the issue of causation. Arrowood's substantial evidence argument is founded upon his claim that substantial evidence does not support a finding his injury was not work related. Maytag Company cross-appeals, arguing the district court incorrectly affirmed (1) the agency's overruling Maytag's objection to the admission of Arrowood's late medical report and (2) the agency's rejection of Maytag's defense under Iowa Code section 85.23 (2009) that Arrowood failed to provide timely notice of his claim.

Our review is not de novo, for review of agency actions is for correction of errors at law. *IBP, Inc. v. Harpole*, 621 N.W.2d 410, 418 (Iowa 2001). The Iowa Administrative Procedure Act, Iowa Code chapter 17A, directs our review of appeals from decisions of the workers' compensation commissioner. Iowa Code § 86.26; *Quaker Oats Co. v. Ciha*, 552 N.W.2d 143, 149 (Iowa 1996). 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). If they are the same, we affirm. *Id*.

"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 v. IBP, Inc*., 710 N.W.2d 213, 218 (Iowa 2006) (citing Iowa Code § 17A.19(10)); *see also Hill v. Fleetguard, Inc.*, 705 N.W.2d 665, 671 (Iowa 2005). If particular matters have been vested in the discretion of the agency, we must give appropriate deference to the agency's view of such matters. Iowa Code § 17A.19(11)(c). "The factual determinations made by the workers' compensation commissioner are clearly vested by a provision of law in the discretion of the agency." *Schadendorf v. Snap-On Tools Corp.*, 757 N.W.2d 330, 334 (Iowa 2008) (internal quotations omitted). We therefore must first identify the nature of the claimed basis for reversal or affirmance of the commissioner's decision. *Lakeside Casino v. Blue*, 743 N.W.2d 169, 173 (Iowa 2007).

A reviewing court may reverse the decision of the commissioner if it is characterized by an abuse of discretion. *Kohlhaas v. Hog Slat, Inc.*, 777 N.W.2d 387, 391 (Iowa 2009) (quoting *Univ. of Iowa Hosps. & Clinics v. Waters*, 674 N.W.2d 92, 95 (Iowa 2004)). "An abuse of discretion occurs when the commissioner's exercise of discretion is 'clearly erroneous or rests on untenable grounds.'" *Id*. (citation omitted).

Arrowood claims the agency "rested its decision fully upon the opinions of Drs. Boarini and Thurston without considering the buttressing lay testimony of

Arrowood in deciding the issue of causation." In addressing this issue, the district court concluded:

> The evidence in the record reflects the fact that the commissioner properly considered all of the available evidence. As noted above, the commissioner allowed the entry of Dr. Tywner's letter over the objection of Maytag; presumably, the commissioner would not have admitted it unless he intended to consider the doctor's opinion along with the rest of the record. The commissioner refers to the opinions of Drs. Jones and Tywner and the testimony of Mr. Arrowood repeatedly in his decision. (citation omitted.) The record shows that the commissioner considered their testimony, but found others more convincing. (citation omitted.) Consequently, the commissioner did not abuse his discretion . . . .

Upon our review, we agree.

Arrowood next claims substantial evidence does not support a denial of benefit. While factual determinations are vested in the agency, we will, however, reverse or modify a decision if the fact findings are not supported by substantial evidence when viewing the record as a whole. Iowa Code § 17A.19(10)(f); *Mycogen Seeds v. Sands*, 686 N.W.2d 457, 464-65 (Iowa 2004). Substantial evidence is evidence that both in quantity and quality would be found to be "sufficient by a neutral, detached, and reasonable person, to establish the fact at issue" when the results of the fact determination are viewed as serious and of great importance. Iowa Code § 17A.19(10)(f)(1). "Our assessment of the evidence focuses not on whether the evidence would support a different finding than the finding made by the commissioner, but whether the evidence supports the findings actually made." *Schutjer v. Algona Manor Care Ctr.*, 780 N.W.2d 549, 557-58 (Iowa 2010) (citing *Meyer*, 710 N.W.2d at 218).

A workers' compensation claimant must prove by a preponderance of the evidence the disability on which the claim is based is causally related to injuries

arising out of and in the course of employment. *Sanchez v. Blue Bird Midwest*, 554 N.W.2d 283, 285 (Iowa Ct. App. 1996). "The question of causal connection is essentially within the domain of expert testimony." *Id.* As the trier of fact, the commissioner determines the weight to be given to any expert testimony. *See Sherman v. Pella Corp.*, 576 N.W.2d 312, 321 (Iowa 1998). "The commissioner may accept or reject the expert opinion in whole or in part." *Id.*; *see also Sanchez*, 554 N.W.2d at 285 ("Expert opinion testimony, even if uncontroverted, may be accepted or rejected in whole or in part by the trier of fact.").

There is conflicting evidence in the record as to the causation issue. "The fact that two inconsistent conclusions may be drawn from the same evidence does not prevent the agency's findings from being supported by substantial evidence." *Asmus v. Waterloo Cmty. Sch. Dist.*, 722 N.W.2d 653, 657 (Iowa 2006). We should not consider evidence insubstantial merely because we may draw different conclusions from the record. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 393 (Iowa 2007). Additionally, we must not "reassess the weight of the evidence because the weight of the evidence remains within the agency's exclusive domain." *Robbennolt v. Snap-On Tools Corp.*, 555 N.W.2d 229, 234 (Iowa 1996). It is not the role of the district court on judicial review, or this court on appeal, to reassess this evidence. *See Arndt*, 728 N.W.2d at 394. Further, where the

> workers' compensation commissioner has rendered a finding that the claimant's evidence is insufficient to support the claim under applicable law, that negative finding may only be overturned if the contrary appears as a matter of law.

Asmus, 722 N.W.2d at 657.

Here, the district court concluded:

> In the case at bar, the [deputy commissioner] was correct in his finding that Mr. Arrowood failed to meet his burden of proof that his injury was work related. The [deputy commissioner's] reliance upon the expert's testimony and the weight he gave to each expert was correct and reasonable under the facts. The evidence was quite substantial to support the [deputy commissioner's] findings, affirmed by the [commissioner], that Mr. Arrowood's injury was not work related. The credible expert testimony relied upon by the [deputy commissioner] supported this finding.

Upon our review, we agree and conclude substantial evidence supports the commissioner's finding that Arrowood failed to meet his burden of proof that his injury was work related.

In applying the precepts that govern our review, we reach the same conclusions as those reached by the district court and accordingly affirm. It is therefore unnecessary to address Maytag's cross-appeal.

AFFIRMED.