IN THE COURT OF APPEALS OF IOWA

No. 3-654 / 13-0195
Filed August 21, 2013

QUAKER OATS COMPANY and ACE-CIGNA,
Plaintiff-Appellants,

vs.

LARRY FARAR,
Defendant-Appellee.

Appeal from the Iowa District Court for Linn County, Robert E. Sosalla, Judge.

Quaker Oats Company appeals the Iowa Workers' Compensation Commissioner's award of healing benefits, permanent partial disability benefits, and medical benefits to Farar, claiming the findings are not supported by substantial evidence. **AFFIRMED.**

Mark A. Woollums and Edward J. Rose of Betty, Neuman & McMahon, P.L.C., Davenport, for appellants.

William G. Nicholson of Rush & Nicholson, P.L.C., Cedar Rapids, for appellee.

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

VOGEL, P.J.

I. Factual and Procedural Background

Larry Farar began working for Quaker Oats Company in 1975. He worked in several different positions, though all involved manual labor, including moving heavy objects and going up and down stairs or ladders. Farar's knee pain began in 1996, when he sustained a knee injury at work running after a rail car. His physical exam and MRI revealed abnormalities in the distal quadriceps tendon. The exam also showed he was markedly overweight. In 1997, Farar's knee pain grew worse, and he reported having difficulty putting weight on it after sitting or lying down for significant periods of time. He was diagnosed with chronic right patellofemoral syndrome. Quaker Oats accepted responsibility for these injuries but, at some point in 1999, declined to pay for further treatment.

In 2000, Farar reported an increase in knee pain after climbing bins and rail cars at work. Craig Dove, M.D., performed a right knee scope that revealed significant arthritic changes. Dr. Dove found this condition to be partially work related, though Farar's weight contributed to the problem. Dr. Dove suggested weight loss and exercise, as Farar's weight ranged from 320 to 375 pounds during this time, and was 320 pounds at the time of the arbitration hearing. Quaker Oats denied responsibility for his knee condition.

Farar continued to have problems with both knees and was diagnosed in 2000 with internal derangement of the knees by Jeffrey Nassif, M.D. Farar underwent physical therapy but continued to have pain. Dr. Nassif treated Farar with injections.

James Pape, M.D., saw Farar in August 2001 and opined he suffered from bilateral patellofemoral chondromalacia, which is a degenerative condition. Dr. Pape continued to prescribe anti-inflammatories to Farar for a number of years.

In 2007 Farar went back to Dr. Nassif, and a September 2007 X-ray showed severe osteoarthritis of the knees with lost joint space. Knee replacement surgery was recommended, and Dr. Nassif suggested Farar lose weight in preparation for this surgery.

On March 14, 2008, Farar submitted an incident report to Quaker Oats, alleging he had sustained bilateral knee injuries by repetitive trauma. Specifically, Farar attributed his knee pain to the years he worked at Quaker Oats, which required him to climb, kneel, and crawl, coupled with production pressures and working overtime. This is the date of the manifestation of Farar's disability used for purposes of determining cumulative injury.

In 2008 and 2009, Farar experienced wrist and hand problems, for which he had two surgeries and did not attend work for three months. In 2010, another x-ray revealed "severe grade 4 bone-on-bone arthritis" in both knees. On March 15 and May 17, 2010, Dr. Nassif performed knee replacement surgeries on Farar. Following these surgeries, Farar suffered from deep vein thrombosis and pulmonary emboli conditions.

Farid Manshadi, M.D., examined Farar on June 14, 2010, and determined he was not at maximum medical improvement (MMI). On December 9, 2010, Dr. Manshadi declared Farar had reached MMI, assigning Farar a rating of permanent partial impairment of 37% of the left lower extremity and 39% of the right lower extremity. William Jacobson, M.D., after a second independent

medical examination, assigned 50% ratings to each of Farar's lower extremities on December 16, 2010.

Farar also experiences depression and anxiety. He presented with symptoms beginning in 2008, and Laurence Krain, M.D., concluded in a 2010 report that Farar's inability to work was due to his psychiatric condition of depression. Farar has continued to receive treatment for these mental health issues. Farar was also diagnosed with diabetes in 2005, and takes medication for diabetes, as well as for high blood pressure and high cholesterol.

Farar last worked at Quaker Oats on March 12, 2010. He filed his workers' compensation petition in 2011, and the petition came on for hearing on March 3, 2011. The deputy issued the arbitration decision on April 27, 2011, which the commissioner affirmed on April 19, 2012, without additional comment. Specifically, the agency found Farar's work activities were a substantial cause of his bilateral knee condition. The agency further found Farar's deep vein thrombosis and pulmonary emboli conditions were complications of the total knee replacement surgeries, such that they were also causally related to the March 14, 2008 cumulative injury. The agency awarded Farar healing period benefits from March 15, 2010, until December 9, 2010, 180 weeks of permanent partial disability benefits, and medical benefits.

Quaker Oats now appeals the agency's finding that Farar's bilateral knee condition, deep vein thrombosis, and pulmonary emboli conditions were causally related to the cumulative work injury of March 14, 2008. Quaker Oats asserts the agency's finding of causation is not supported by substantial evidence. Specifically, Quaker Oats cites the opinions of several doctors who maintain

Farar's disability is not a result of the 1995 knee injury but rather is due to a degenerative condition that would have resulted in knee replacements regardless of Farar's line of work. Furthermore, Quaker Oats argues the agency's decision misrepresented the record, and as such it is entitled to a remand, with instructions for the agency to more thoroughly address the record.

II. Standard of Review

Our review is governed by the Iowa Administrative Procedure Act, set forth in Iowa Code chapter 17A. Iowa Code § 17A.19 (2011). We apply the standards of this section to the commissioner's decision, then decide whether the district court correctly applied the law in exercising its function of judicial review. *Lakeside Casino v*. *Blue*, 743 N.W.2d 169, 172–73 (Iowa 2007). At the agency level the claimant must prove by a preponderance of the evidence that his claimed injuries arose out of and in the course of his employment and proximately caused the disability; appellate review under Iowa Code section 17A.19(10)(f) is deferential to the agency's decision.

In line with this standard, the issue of medical causation is a question of fact vested in the discretion of the administrative agency. *Cedar Rapids Cmty*. *Sch*. *Dist*. *v*. *Pease*, 807 N.W.2d 839, 844 (Iowa 2011). As long as the agency's finding of causation is supported by substantial evidence, we will not disturb the decision. *See id.* at 845.

Substantial evidence is defined as:

> [T]he quantity and quality of evidence 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.

Iowa Code § 17A.19(10)(f)(1). When reviewing a finding of fact for substantial evidence, we judge the decision "in light of all the relevant evidence in the record cited by any party that detracts from that finding as well as all of the relevant evidence in the record cited by any party that supports it." *Id.* § 17A.19 (10)(f)(3). While we carefully review the facts of the case, and "do not simply rubber stamp" the agency's decision, evidence is not insubstantial only because reasonable minds could draw different conclusions. *Pease*, 807 N.W.2d at 845. Thus, our task is merely to determine if, viewing the record as a whole, the evidence supports the findings actually made. *Id.*

Additionally, the issue of causation is traditionally within the domain of expert testimony. *Id.* As the trier of fact, the agency is charged with weighing the evidence and measuring the credibility of witnesses. *Id.* Therefore, "the determination of whether to accept or reject an expert opinion is within the peculiar province of the commissioner." *Id.* (internal quotation marks omitted).

III. Causation

Quaker Oats first claims the agency's finding of causation is not supported by substantial evidence. Specifically, Quaker Oats argues Farar's bilateral knee problem is a naturally occurring condition due to arthritis, rather than his activities at work. Furthermore, Quaker Oats argues Farar's testimony that he suffers from pain after sitting or lying down for extended periods of time and that he had no improvement even after taking several months off of work indicates his activity at Quaker Oats neither caused, nor aggravated, his disability. Quaker Oats also contends the expert medical opinions do not support a finding of causation, and that the agency's conclusion based on these opinions is irrational, unreasonable,

and constitutes an abuse of discretion. Quaker Oats relies on the opinion of several doctors who concluded Farar's disability was not causally related to the March 14, 2008 injury but rather was caused by Farar's obesity, lack of exercise, mental health issues, and naturally occurring degenerative knee condition.

A. Knee Injury

Several doctors rendered opinions with respect to the cause of Farar's knee problems. In determining the March 14, 2008 cumulative injury caused Farar's disability, Dr. Manshadi stated:

> [Farar] has well documented problems with his knees at least since 2000 when he was seen by Dr. Dove . . . . In fact, the records well reflect that Mr. Farar was seen at PCI for a work-related injury to the right knee occurring in 1995. As such, I believe Mr. Farar's work activities while working at Quaker Oats probably were the primary cause of his knee injuries or at least the work activities aggravated an underlying condition or caused an asymptomatic condition to worsen which eventually required Mr. Farar to have bilateral knee replacement.

It is also notable Dr. Manshadi's report provided significant detail with respect to Farar's medical history, as well as his work history. In a report dated April 14, 2000, Dr. Dove stated: "I did inform the patient his knee problems are likely multifactorial including his weight, chondrocalcinosis, and patellofemoral syndrome. The patellofemoral syndrome I would consider at least partially work-related secondary to his reported climbing and kneeling."

Dr. Jacobson and Dr. Nassif each rendered a different opinion regarding causation. After his December 16, 2010 exam of Farar, Dr. Jacobson concluded Farar's disability was not caused by his work activities. Rather, Dr. Jacobson determined Farar's knee replacements were necessitated by Farar's degenerative joint disease consistent with osteoarthritis, with his obesity being a factor. He

concluded: "I do not believe that this was the result of any type of work-related injury and the natural history and progress would be to develop more severe osteoarthritic changes which the patient has gone on to develop."

Dr. Nassif signed a letter dated January 20, 2011, asserting he agreed with the following statement: "The proximate cause of Mr. Farar's knee replacements is the degenerative joint disease consistent with osteoarthritis of the knees and you cannot state that work was a proximate cause or substantial factor in bringing about the need for the bilateral knee replacements."

In the section of the arbitration decision dedicated to establishing causation, the deputy discussed the opinions of Dr. Manshadi, Dr. Dove, Dr. Nassif, and Dr. Jacobson. The deputy also cited the opinions of Dr. Mehlhoff, Dr. Coates, Dr. Dove, and Dr. Durand with respect to Farar's pre-2008 treatment for his knee condition. In concluding Farar met his burden to show his disability was causally related to his cumulative injury, the deputy stated:

> The opinions of Dr. Manshadi and others will be given greater weight than those of Dr. Nassif and Dr. Jacobson. When coupled with claimant's credible and convincing description of the wear and tear on his knees required by his work duties over 35 years with Quaker, those opinions seem far more reasonable than attributing claimant's current serious knee conditions to simple aging or other non-work factors. Although his weight may have been a contributing factor, claimant is only required to show that his work activities were a substantial factor in causing his current condition, and it is found that he has carried that burden of proof.

The commissioner adopted these findings.

While the weight of the medical evidence is to the contrary, we agree with the district court's determination that substantial evidence supports the agency's finding of causation. Specifically, the opinion of Dr. Manshadi provided enough

evidence to sustain this finding. *See id.* at 846-47 (finding one expert opinion was enough to conclude there was substantial evidence supporting the agency's finding). Though Dr. Nassif and Dr. Jacobson concluded the cumulative injury was not the cause of Farar's bilateral knee condition, our task is not to determine if a different conclusion could have been reached but, whether substantial evidence supports the findings actually made. *See id.* at 845.

Furthermore, it is well settled that credibility determinations are within the province of the agency presiding over the hearing. *Id.* Given the agency in this case made specific credibility determinations in favor of Farar and Dr. Manshadi, and Dr. Manshadi's opinion relies on Farar's well-documented medical and work history, there is substantial evidence supporting the agencys finding the March 14, 2008 cumulative injury caused Farar's disability.

B. Pulmonary Emboli and Deep Venous Thrombosis

Quaker Oats further argues substantial evidence does not support the finding that the complications of pulmonary emboli and deep venous thrombosis (DVT) arose due to Farar's knee surgeries. To support the conclusion these conditions were caused by work-related activities, Farar's work must have caused a knee condition that required surgery, and the surgery in turn must have caused these conditions. Quaker Oats maintains there was no expert testimony supporting this finding.

With regard to the pulmonary emboli and DVT conditions, Dr. Manshadi stated Farar "had DVTs and pulmonary embolisms as a result of the DVTs which are complications of the knee replacements." Dr. Manshadi did not explain the facts on which he relied when coming to this conclusion, nor did he state why he

came to this determination. Reaching the opposite conclusion, in a letter dated January 20, 2011, Dr. Nassif agreed with the following statement:

> [T]he deep venous thrombosis noted in the right popliteal vein and subsequent acute ischemic stroke with infarction was caused by Mr. Farar's underlying personal medical condition which consisted at least in part of obesity, hyperlipidemia, hypertension and diabetes mellitus and that neither of the bilateral knee replacements were a substantial factor in the development of either the DVT . . . or subsequent acute ischemic stroke.

However, in the section where Dr. Nassif could add his own modifications, he wrote: "[Farar's] knee replacements were a possible contributing factor to his DVT." The agency relied on the opinion of Dr. Manshadi and the more equivocal opinion of Dr. Nassif in concluding these conditions were complications of the total knee replacement surgeries, and thus were part of Farar's work injury.

Asserting there is an expert opinion to the contrary, Quaker Oats cites a neurological report in which Dr. Krain observed Farar's postsurgical neurological episodes were related to a depressive illness and stressors. However, Dr. Krain did not give a definitive opinion regarding whether or not the knee surgeries caused Farar's pulmonary emboli and DVT. Thus, while Dr. Manshadi provides no reasons for his conclusion, there remain no expert opinions to the contrary. Though Dr. Nassif's opinion only asserts the possibility of causation, his assessment in combination with Dr. Manshadi's opinions provide substantial evidence in support of the agency's finding that Farar's knee surgeries caused his pulmonary emboli and DVT. Given our task is to determine whether substantial evidence supports the finding actually made, and not to reweigh the evidence, we affirm the deputy's finding of causation.

IV. Adequacy of the Record

Quaker Oats also maintains the agency's decision unreasonably represented various medical opinions and a remand is appropriate for clarification of the record. Specifically, Quaker Oats argues the agency improperly relied on, or did not properly consider, statements and opinions by Dr. Dove, Dr. Coates, Dr. Nassif, Dr. Jacobson, Dr. Pate, Dr. Mehlhoff, and Dr. Durand.

However, Quaker Oats does not cite any authority supporting its argument we should remand so the agency may make a more complete record. We do note that, even when a record is inadequate, remand for additional evidence is generally not appropriate and is only done when there are "good reasons." *Swiss Colony*, *Inc*. *v*. *Deutmeyer*, 789 N.W.2d 129, 136 (Iowa 2010) ("When a record is inadequate, remand for additional evidence is generally not appropriate and the issue will be decided adversely to the party bearing the burden of proof."). The agency's opinion discussed each doctor's view, including the overwhelming majority of doctors who concluded Farar's disability was not work related. While it did not reference every medical opinion that was offered in the case, it addressed both supporting and opposing views. However tempting it may be to reweigh the evidence, that is not our function, nor is it permitted under the Iowa Code. *See id.* Therefore, we affirm the decision of the district court, which affirmed the agency's findings.

AFFIRMED.