

STATE OF MICHIGAN
COURT OF APPEALS

JACK G. DILLON,

UNPUBLISHED

January 21, 1997

Plaintiff-Appellee,

v

No. 186503

TNT HOLLAND MOTOR EXPRESS, INC.,

WCAC

LC No. 92-001000

Defendant-Appellant.

Before: Hoekstra, P.J., and Sawyer and T. P. Pickard*, JJ.

PER CURIAM.

Defendant appeals a May 12, 1995 decision of the Worker's Compensation Appellate Commission (WCAC) affirming an award of benefits for a heart disability. We reverse and remand.

In a decision mailed October 22, 1992, a worker's compensation magistrate granted plaintiff an open award of benefits based upon a December 21, 1989 work injury date, finding that plaintiff had established a work-related cardiac disability per the standard incorporated into §§ 301(2) and 401(2)(b) of the Worker's Disability Compensation Act in 1982. The magistrate did not have the benefit of the Michigan Supreme Court's decision in *Farrington v Total Petroleum, Inc*, 442 Mich 201; 501 NW2d 76 (1993), and in fact relied upon prior cases applying the pre-1982 common law standard of causation in heart cases, i.e., *Miklik v Michigan Special Machine Co*, 415 Mich 364; 329 NW2d 713 (1982) and *Kostamo v Marquette Iron Mining Co*, 405 Mich 105; 274 NW2d 411 (1979).

In *Farrington*, *supra* at 216-217, the Michigan Supreme Court recognized that the "significant manner" standard of §§ 301(2) and 401(2)(b) imposes a more stringent standard of proof than the "mere causal relationship" standard of causation applied in *Miklik* and *Kostamo*. The claimant is not only required to show some work-related contribution to or aggravation or acceleration of the disabling heart condition, but also that the contribution, aggravation or acceleration from employment was significant in comparison with all of the other factors affecting the development of the disability, including

* Circuit judge, sitting on the Court of Appeals by assignment.

relevant nonoccupational factors such as age, weight, diet, genetic predisposition and use of tobacco or other drugs. *Id.* See also *Gardner v Van Buren Public Schools*, 445 Mich 23, 47; 517 NW2d 1 (1994).

In the instant case, the magistrate noted that there was evidence of several nonoccupational factors affecting plaintiff's cardiac condition, such as a long-standing smoking habit, preexisting arteriosclerosis and a family history of heart disease. However, the magistrate's only analysis of the relative significance of those factors was that such "personal factors" were "not paramount enough to preclude plaintiff from receiving benefits."

The WCAC affirmed the magistrate's decision in a 2-1 split decision. The WCAC majority opined that the magistrate properly applied the "significant manner" standard as explained in *Farrington*, and that the magistrate's assessment of plaintiff's nonoccupational factors as being "less significant than" plaintiff's work factors was not unreasonable. The dissent opined that the magistrate's analysis does not sufficiently comply with requirements of *Farrington*, especially since the magistrate relied upon the lesser causation standard in *Miklik*, and therefore the dissent would have remanded the case to the magistrate for a supplemental opinion in light of *Farrington*.

We agree with defendant and the WCAC dissent that the magistrate's opinion is insufficient to indicate that the magistrate engaged in the kind of analysis required by *Farrington*. An opinion is inadequate for purposes of review when it is so conclusory or incomplete as to require speculation regarding the facts and legal reasoning relied upon for the conclusions reached. *Woody v Cello-Foil Products (After Remand)*, 450 Mich 588, 597; 546 NW2d 226 (1996). See also *Lombardi v William Beaumont Hospital (On Remand)*, 199 Mich App 428, 436; 502 NW2d 736 (1993).

Here, the magistrate's opinion contains no express reference to the "significant manner" requirement whatsoever, and the magistrate's determination that plaintiff's nonoccupational factors were "not paramount enough" is insufficient to unequivocally indicate even whether the magistrate found those factors "less" significant than work factors, as the WCAC majority assumed. Arguably, if the magistrate had found the nonoccupational factors less significant she would not have found them "paramount" at all, as opposed to merely not "paramount enough." The magistrate's reliance upon language from *Miklik* that was later characterized in *Farrington* as indicative of the lesser "mere causal relationship" standard also renders the magistrate's application of the statutory standard suspect.

In accordance with *Woody, supra*, we reverse the decision of the WCAC and remand the case to the magistrate for further proceedings and detailed findings on whether plaintiff has satisfied the requirements of the "significant manner" standard in light of *Farrington, supra*. Because we are remanding the case for further proceedings before the magistrate, we do not reach defendant's other allegations of error.

Reversed and remanded. We do not retain jurisdiction.

/s/ Joel P. Hoekstra
/s/ David H. Sawyer
/s/ Timothy P. Pickard