

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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GREGORY D. JENEMA,

Plaintiff-Appellant,

v

GENERAL MOTORS CORPORATION,

Defendant-Appellee.

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UNPUBLISHED  
December 5, 2000

No. 211952  
WCAC  
LC No. 95-000451

Before: Cavanagh, P.J., and Talbot and Meter, JJ.

PER CURIAM.

Plaintiff appeals by leave granted the opinion and order of the Worker's Compensation Appellate Commission modifying the magistrate's open award of disability benefits to a closed award. We affirm.

Plaintiff worked at defendant's rubber mill in Cadillac for approximately one month in April and May 1994. He began having breathing difficulties on May 7, 1994, and his last day of work was May 20, 1994, when his problem worsened to the extent that he left work to seek treatment at a hospital emergency room. Plaintiff's treating physician testified that plaintiff could not return to work at defendant's rubber mill because of a high probability that he would experience a recurrence of his symptoms. The magistrate found plaintiff and his physician were credible witnesses and entered an open award of benefits based on their testimony.

The Worker's Compensation Appellate Commission modified the magistrate's decision to a closed award of benefits. The WCAC found that although plaintiff and his expert presented sufficient evidence to establish an injury, there was no competent, material, and substantial evidence to establish that plaintiff's underlying pathology was changed by the injury. Reviewing the record, the WCAC found that there was no substantial evidence to establish that plaintiff's inability to work in dusty and dirty conditions, on a permanent basis, was changed by his work experience with defendant. The WCAC concluded that plaintiff had a temporary inflammatory reaction and recovered from his injury.

Our review of a decision of the WCAC is limited to whether the WCAC exceeded its authority or committed an error of law. *Alston v Chrysler Corp*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_

NW2d \_\_\_\_ (Docket No. 223923, issued 11/3/00), slip op, p 1. The findings of fact made or adopted by the WCAC within the scope of its powers are conclusive on appeal in the absence of fraud. *Id.* “‘If there is any evidence supporting the WCAC’s factual findings, and if the WCAC did not misapprehend its administrative appellate role in reviewing decisions of the magistrate, then the courts must treat the WCAC’s factual findings as conclusive.’” *Id.*, quoting *Mudel v Great Atlantic & Pacific Tea Co*, 462 Mich 691, 709-710; 614 NW2d 607 (2000). However, a decision of the WCAC may be reversed if it is based on erroneous legal reasoning or the wrong legal framework. *Alston, supra*, slip op, p 2.

This Court granted leave to appeal in part to determine whether the action of the WCAC was consistent with the limitation on its fact-finding function under *Layman v Newkirk Electric Associates, Inc*, 458 Mich 494; 581 NW2d 244 (1998). In *Mudel, supra* at 710-714, the Supreme Court overruled *Layman*, finding that it misstated the law with regard to the WCAC’s authority to make independent findings of fact. The standard imposed by *Mudel* was summarized by this Court in *Mattison v Pontiac Osteopathic Hospital*, \_\_\_\_ Mich App \_\_\_\_, \_\_\_\_; \_\_\_\_ NW2d \_\_\_\_ (Docket Nos. 218082 and 218086, issued 9/29/00), slip op, p 3:

The WCAC must consider the magistrate’s findings of fact conclusive if they are supported by competent, material, and substantial evidence on the entire record. MCL 418.861a(3); MSA 17.237(861a)(3); *Mudel v Great Atlantic & Pacific Tea Co*, 462 Mich 691, 698-699; \_\_\_\_ NW2d \_\_\_\_ (2000). Substantial evidence is evidence that a reasonable person would accept as adequate to justify a conclusion. *Id.* Where substantial evidence on the whole record does not exist to support the magistrate’s factual finding, the WCAC may substitute its own finding of fact for that of the magistrate. *Id.* at 699-700. In contrast, in the absence of fraud, this Court must treat findings of fact made by the WCAC acting within its powers as conclusive. MCL 418.861a(14); MSA 17.237(861a)(14); *Mudel, supra* at 700. This Court may review questions of law involved with any final order of the WCAC. MCL 418.861a(3) & (14); MSA 17.237(861a)(3) & (14). However, this Court does not independently review the question whether the magistrate’s findings of fact are supported by substantial evidence. *Mudel, supra* at 700-701. Rather, this Court’s review is at an end once it is satisfied that the WCAC has understood and properly applied its own standard of review. *Id.* at 703-704. So long as the WCAC did not “misapprehend or grossly misapply” the “substantial evidence” standard test and there exists in the record evidence supporting the WCAC’s decision, then this Court must treat the WCAC’s factual decisions as conclusive. *Id.*

The WCAC found that plaintiff established that there was an injury and that he had symptoms of pulmonary inflammation, but there was no evidence that plaintiff’s underlying pathology, and thus his ability to perform work on a permanent basis, was changed by the injury. The magistrate failed to explicitly conclude that plaintiff’s underlying condition was changed by the injury, and the WCAC found that there was no competent, material, and substantial evidence to support such a finding. This Court will not independently review the question whether the magistrate’s findings of fact are supported by substantial evidence. *Mudel, supra* at 700-701.

We affirm the decision of the WCAC because there exists in the record evidence supporting the WCAC's decision, the WCAC did not "misapprehend or grossly misapply" the "substantial evidence" standard test, and the WCAC acted within its authority in finding that plaintiff failed to establish an ongoing disability after his symptoms had diminished. See *Mattison, supra*, slip op, p 4; *McDonald v Meijer, Inc*, 188 Mich App 210; 469 NW2d 27 (1991).

Affirmed.

/s/ Mark J. Cavanagh

/s/ Michael J. Talbot

/s/ Patrick M. Meter