

STATE OF MICHIGAN
COURT OF APPEALS

ULYSSES REED,

Plaintiff-Appellant,

v

OAKLAND COUNTY ROAD COMMISSION,

Defendant-Appellee.

UNPUBLISHED

September 13, 2002

No. 232396

WCAC

LC No. 00-000222

Before: Murphy, P.J., and Hood and Murray, JJ

PER CURIAM.

Plaintiff appeals by leave granted from the order of the Worker's Compensation Appellate Commission, which reversed the magistrate's open award of disability benefits. We affirm.

Plaintiff claimed a work-related disability due to his degenerative disc disease or arthritis in his back. Following trial, the magistrate granted plaintiff an open award of disability benefits. Although the magistrate recognized that plaintiff suffers from nonwork-related arthritis in the back, which the magistrate agreed was an ordinary disease of life attributable to aging, the magistrate nevertheless granted benefits because he found that plaintiff's work aggravated, accelerated, or contributed to plaintiff's back problem in a significant manner, as required by MCL 418.301(2). In reaching this decision the magistrate relied upon the deposition of plaintiff's expert Mark Rottenberg, M.D., who testified that plaintiff's injury at work "went directly to his continued ongoing problems with his neck and lower back."

Defendant appealed to the Commission, which concluded that the magistrate's finding that plaintiff's work aggravated, accelerated, or contributed to plaintiff's back problem in a significant manner was not supported by competent, material, and substantial evidence. The Commission found that Dr. Rottenberg never directly testified that plaintiff's work significantly contributed to his current back condition, writing that "[w]ithout more, Dr. Rottenberg's testimony that work was a direct factor cannot be translated into it being a significant factor." The Commission found inadequate support for the magistrate's finding on the issue and reversed the magistrate's award of benefits.

On appeal plaintiff argues that the Commission erred by substituting its own findings of fact where the magistrate's findings were supported by substantial evidence. We find no error.

This Court's review of a decision by the WCAC is limited. In the absence of fraud, findings of fact made by the WCAC acting within its powers shall be conclusive. This Court may review questions of law involved with any final order of the WCAC. MCL 418.861a(14); *Holden v Ford Motor Co*, 439 Mich 257, 262, n 8; 484 NW2d 227 (1992). However, this Court does not independently review the question of whether the magistrate's findings of fact are supported by substantial evidence. *Mudel v Great Atlantic & Pacific Tea Co*, 462 Mich 691, 700-701; 614 NW2d 607 (2000). Instead, 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. So long as the WCAC did not "misapprehend or grossly misapply" the substantial evidence test, and there existed in the record any evidence supporting the WCAC's decision, this Court must affirm its decision. *Id.* at 703-704.

Here the Commission did not engage in any fact finding, but instead reversed a magistrate's finding as unsupported by the evidence. Judicial review in this case is therefore limited to the question of whether the WCAC misapprehended its administrative appellate role or whether it misapprehended or grossly misapplied the substantial evidence standard, and gave an adequate reason grounded in the record for reversing the magistrate. *Mudel, supra* at 703, 732. The Commission did not misapprehend its appellate function or misapply the substantial evidence test. The magistrate's finding that plaintiff's work played a significant role in the continuing problems with his back was based on Dr. Rottenberg's deposition testimony. As argued by defendant and found by the Commission, Dr. Rottenberg's testimony never directly addressed the issue of whether plaintiff's work contributed to, aggravated or accelerated his back condition in a significant manner.

Affirmed.

/s/ William B. Murphy
/s/ Harold Hood
/s/ Christopher M. Murray