

STATE OF MICHIGAN
COURT OF APPEALS

EDDIE C. ROHDE,

Plaintiff-Appellant,

v

DELPHI CORPORATION,

Defendant-Appellee.

UNPUBLISHED

May 22, 2007

No. 267460

WCAC

LC No. 04-000379

Before: Meter, P.J., and Kelly and Fort Hood, JJ.

PER CURIAM.

Plaintiff appeals by leave granted an order of the Worker's Compensation Appellate Commission ("WCAC") affirming a magistrate's denial of benefits. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff claimed to have suffered disabling injuries to his neck, back, and upper extremities as a result of his employment with defendant. At issue in this appeal is plaintiff's claimed shoulder disability.

The magistrate denied benefits on the ground that plaintiff suffered from age-related arthritis in his shoulders, and the evidence failed to establish that plaintiff's work for defendant significantly contributed to, aggravated, or accelerated that age-related condition. MCL 418.301(2).¹ On appeal to the WCAC, plaintiff argued that MCL 418.301(2) was inapplicable because his impingement condition was "medically distinguishable" from his age-related arthritis. The WCAC agreed with plaintiff that the arthritis and impingement conditions were "medically distinguishable" and found that the requirements of *Rakestraw v General Dynamics*

¹ MCL 418.301(2) states:

Mental disabilities and conditions of the aging process, including but not limited to heart and cardiovascular conditions, shall be compensable if contributed to or aggravated or accelerated by the employment in a significant manner. Mental disabilities shall be compensable when arising out of actual events of employment, not unfounded perceptions thereof.

Land Sys, Inc, 469 Mich 220; 666 NW2d 199 (2003) had been met, but stated that MCL 418.301(2) applied because plaintiff suffered from a condition of the aging process. The WCAC concluded that the evidence did not support a finding that plaintiff's work activities significantly aggravated, combined with, or accelerated, plaintiff's arthritic shoulders to result in the impingement. As a result, the denial of benefits was affirmed.

The WCAC reviews the magistrate's decision under the "substantial evidence" standard, while we review the WCAC's decision under the "any evidence" standard. *Mudel v Great Atlantic & Pacific Tea Co*, 462 Mich 691, 701; 614 NW2d 607 (2000). If any evidence supports the WCAC's decision, and if the WCAC did not misapprehend its role in reviewing the magistrate's decision, then we must treat the WCAC's findings of fact as conclusive. *Id.* at 709-710. We review a question of law in a WCAC decision under a de novo standard. *DiBenedetto v West Shore Hosp*, 461 Mich 394, 401; 605 NW2d 300 (2000).

Plaintiff claims that the WCAC erred finding the "significant manner" test to be applicable. Plaintiff argues that because the disabling condition, the impingement, was "medically distinguishable" from the arthritis, and was not a condition of the aging process, MCL 418.301(2) was inapplicable. We disagree.

The WCAC's finding that plaintiff's arthritis and impingement were "medically distinguishable," for purposes of *Rakestraw*, *supra*, simply means that the impingement was not the result of the natural progression of the underlying, non-work-related, arthritic condition, but was related to plaintiff's employment, and that plaintiff established a causal connection to the workplace. See *Rakestraw*, *supra* at 231. Such a finding does not mean that the impingement must be deemed completely unrelated to the arthritis. In this case, the relationship between the arthritis and the impingement is significant. The medical evidence indicated that the impingement was a consequence of the arthritis; in particular, the arthritis combined with plaintiff's work to cause the impingement. Because of the causal relationship between the arthritis and the impingement, and the fact that plaintiff would not suffer from impingement if he did not suffer from arthritis, which plaintiff concedes is a condition of the aging process, it is reasonable and logical to conclude that, in plaintiff's case, the impingement itself is a condition of the aging process. Thus, although plaintiff's arthritis and impingement were "medically distinguishable," they were related to such an extent that they were both "conditions of the aging process." Consequently, we find no error in the WCAC's conclusion that MCL 418.301(2) applied, and that plaintiff was not entitled to benefits.

In light of this conclusion, plaintiff's other issue need not be addressed.

Affirmed.

/s/ Patrick M. Meter
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood