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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2388**

In the Matter of the Claim for Benefits by Gary L. Minnie.

**Filed December 30, 2008
Reversed and remanded
Kalitowski, Judge**

Minnesota Public Safety Officers Benefit Eligibility Panel

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Considered and decided by Kalitowski, Presiding Judge; Halbrooks, Judge; and
Harten, Judge.*

UNPUBLISHED OPINION

KALITOWSKI, Judge

Relator Gary L. Minnie (relator) challenges the Minnesota Public Safety Officers
Benefit Eligibility Panel's (panel) denial of his application for continuing health-care
benefits under the provisions of Minn. Stat. § 299A.465, subd. 1 (2006). Relator
contends that (1) the panel erred in finding that relator's occupational duties did not put

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

him at risk for the type of injuries he sustained and (2) the panel's decision was arbitrary, capricious, and without any objectivity. We reverse and remand.

D E C I S I O N

Relator, a former peace officer for the St. Paul Police Department, sustained a back injury in 2003 while lifting weights in the police gym during work hours. Subsequently, in 2004, relator again injured his back when he slipped at work while walking up three stairs to reach the elevated front desk of the police headquarters. This injury rendered relator unable to return to work permanently.

The panel unanimously denied relator's application for benefits, finding that relator's occupational duties and professional responsibilities did not put him at risk for the injuries he sustained. Relator claims that both the weightlifting and the activity of slipping on a stair are compensable events that occurred in the course and scope of his professional duties as a peace officer, and thus, the panel's findings and denial of continuing health benefits were arbitrary, capricious, and unsupported by substantial evidence.

We will reverse an administrative agency's decision only if it is "fraudulent, arbitrary, unreasonable, unsupported by substantial evidence, not within its jurisdiction, or based on an error of law." *Axelson v. Minneapolis Teacher Retirement Fund Ass'n*, 544 N.W.2d 297, 299 (Minn. 1996) (citation omitted). Substantial evidence is "(1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; (2) more than a scintilla of evidence; (3) more than some evidence; (4) more than any evidence; and (5) evidence considered in its entirety." *Reserve Mining Co. v. Herbst*, 256

N.W.2d 808, 825 (Minn. 1977) (quotation omitted). And an agency acts arbitrarily if it fails to articulate a rational connection between the facts found and the decision made. *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 277 (Minn. 2001), cited in *In re Meuleners*, 725 N.W.2d 121, 123 (Minn. App. 2006).

At the time relator applied for benefits, a peace officer could apply to the panel for continued health-insurance benefits after the Public Employee Retirement Association (PERA) awarded the officer-applicant with duty-related disability pension. By statute, a peace officer's employer is required to provide continued health-insurance coverage to the officer and his or her dependents until the officer reaches the age of 65 when the officer:

- (a) suffers a disabling injury that: (1) results in the officer's . . . retirement or separation from service; (2) occurs while the officer . . . is acting in the course and scope of duties as a peace officer . . . ; and (3) the officer . . . has been approved to receive the officer's . . . duty-related disability pension.

Minn. Stat. § 299A.465, subd. 1. In addition, Minn. Stat. § 299A.465, subd. 6, states that:

[w]henver a peace officer . . . has been approved to receive a duty-related disability pension, the officer . . . may apply to the panel . . . for a determination of whether or not the officer . . . meets the requirements in subdivision 1, paragraph (a), clause (2). In making this decision, the panel shall determine whether or not the officer's . . . occupational duties or professional responsibilities put the officer . . . at risk for the type of illness or injury actually sustained.

This court interpreted the relation between these subdivisions in *In re Meuleners*, 725 N.W.2d at 124. There, we determined that the plain language of subdivisions 1 and 6

“creates a two-part test for determining whether a former peace officer is entitled to continued employer-provided health-insurance benefits.” *Id.*

First, the officer must be approved to receive a duty-related disability pension. *Id.* (citing Minn. Stat. § 299A.465, subds. 1(a), 6). Second, the panel must determine whether the disabling injury occurred while the officer was acting within the course and scope of his or her duties. *Id.* In making this determination, the panel must decide whether the officer’s occupational duties or professional responsibilities put the officer at risk for the type of injury sustained. Minn. Stat. § 299A.465, subd. 6.

Here, it is undisputed that PERA granted relator a duty-related disability pension; the first prong of the test is therefore satisfied. The issue in this appeal is whether the second prong of the test is satisfied. At the hearing, relator presented information regarding both of his back injuries, including undisputed evidence that the weightlifting injury did not render relator unable to return to work. Notwithstanding this evidence, the record shows that at the hearing, the panel made no inquiry regarding any facts about the stairs or the elevated desk on which relator was injured in 2004. Rather, the panel focused solely on the facts surrounding relator’s weightlifting injury in 2003.

Moreover, in contrast to the panel’s specific findings in its order regarding the weightlifting injury, the panel made only the following conclusory statement with respect to the stair injury that resulted in relator’s permanent retirement: “Claimant’s second injury occurred stepping down from a raised desk. The Panel determined that claimant’s occupational duties and professional responsibilities did not put him at risk for the injury he sustained.” The panel, therefore, failed to articulate its rationale as to why relator’s

duties did not put him at risk for sustaining a debilitating injury on the stairs at his workplace.

We conclude that the panel's sole focus on the preexisting weightlifting injury was error. This court has held that a preexisting condition or prior injury is irrelevant to the limited inquiry the panel must make. *In re Meuleners*, 725 N.W.2d at 124. "Nowhere does the statute state that an officer's occupational duties or professional responsibilities do not put an officer at risk for a disabling injury simply because the injury aggravates a [preexisting] condition." *Id.* at 124-25. Thus, instead of focusing on the prior weightlifting injury, the panel should have examined the facts and made its decision based on the subsequent injury that caused relator's permanent separation from employment.

We conclude that by only addressing relator's previous injury, the panel's decision to deny benefits was unsupported by substantial evidence. Moreover, the panel acted arbitrarily in failing to find any facts with respect to relator's injury on the stairs and in failing to articulate a rational connection between any facts found and the decision made. Therefore, we remand this matter to PERA for further proceedings consistent with this opinion.

Reversed and remanded.