

IN THE COURT OF APPEALS OF IOWA

No. 8-616 / 07-2093
Filed November 13, 2008

**JOHN DEERE DUBUQUE WORKS OF
DEERE AND COMPANY,**
Plaintiff-Appellant,

vs.

DARYL A. HAUGEN,
Defendant-Appellee.

Appeal from the Iowa District Court for Dubuque County, Alan L. Pearson,
Judge.

Employer appeals from the ruling on judicial review from its former
employee's workers' compensation action. **AFFIRMED IN PART, REVERSED
IN PART, AND REMANDED.**

Dirk Hamel of Gilloon, Wright & Hamel, P.C., Dubuque, for appellant.

Paul J. McAndrew of Paul J. McAndrew Law Firm, Coralville, for appellee.

Considered by Huitink, P.J., and Vogel and Eisenhauer, JJ.

VOGEL, J.

Daryl Haugen began working for John Deere in 1972. Prior to 2003, he had no permanent work restrictions. In 2004, Haugen filed several workers' compensation petitions alleging work-related injuries to his right long finger, cervical spine, left shoulder, bilateral upper extremities, and a mental injury or depression. Following a hearing on the consolidated proceedings, a deputy commissioner issued an arbitration decision concluding Haugen had shown that his cervical and right long finger injuries arose out of and in the course of employment, but that his alleged upper-extremity and mental injuries were not work-related. However, the deputy concluded Haugen failed to prove the cervical and finger injuries entitled him to any permanent disability. On intra-agency appeal, the commissioner largely affirmed, but additionally found that Haugen had suffered a thirty-percent loss of earning capacity as a result of his cervical spine and right long finger injuries, entitling him to permanent partial disability payments. On judicial review, the district court affirmed.

John Deere appeals. Our review of an industrial commissioner's decision is for correction of errors at law. *Simonson v. Snap-On Tools Corp.*, 588 N.W.2d 430, 434 (Iowa 1999). When we review the district court's decision, "we apply the standards of chapter 17A to determine whether the conclusions we reach are the same as those of the district court. If they are the same, we affirm; otherwise we reverse." *Mycogen Seeds v. Sands*, 686 N.W.2d 457, 464 (Iowa 2004). Our role is threefold: (1) determine if the commissioner applied the proper legal standard or interpretation of the law; (2) determine if there was substantial evidence to support the commissioner's findings; and (3) determine if the

commissioner's application of the law to the facts was irrational, illogical, or wholly unjustifiable. *Clark v. Vicorp Rests., Inc.*, 696 N.W.2d 596, 603-04 (Iowa 2005).

Commissioner's Deference to Deputy. John Deere first claims that the commissioner, in his intra-agency appeal decision, "should have deferred to Deputy Garrison's neck claim assessment which was impacted by express or implied credibility determinations." In particular, John Deere asserts the commissioner should have deferred to a larger degree regarding the fact-findings underlying the essential question of whether Haugen sustained any industrial disability.

We first note that judicial review is from *final* agency action, not from the deputy's arbitration decision. Iowa Code § 17A.19(1). Moreover, the commissioner is authorized to "reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding" Iowa Code § 17A.15(3). No statutory authority requires the commissioner to provide any deference to the deputy's fact-findings, and the authority to find facts thus is directly vested by law in the commissioner. Accordingly, we reject John Deere's first claim.

Disability from Right Long Finger. We next address John Deere's claim that the commissioner erred in calculating Haugen's loss of earning capacity, in part, based on what it asserts is a faulty finding that permanent restrictions remained from his right long finger injury. John Deere maintains that the restrictions, on which the commissioner based his industrial disability determination, predated Haugen's corrective surgery and that all of the evidence

indicates his trigger finger condition had been fully resolved, leaving no post-surgical impairment.

First, we note that even the commissioner found that “Haugen had a complete resolution of his symptoms related to the right long finger. No impairment has been issued with respect to this compensable injury.” However, despite this explicit finding, the court found that a series of work restrictions related to Haugen’s hand precluded him from working assembly-line type jobs and thus hindered his ability to work in the competitive labor market. We believe this latter finding is in error. Those restrictions were imposed in February of 2003, two years prior to Haugen’s finger surgery.

There is no evidence in the record that, following that surgery, Haugen continued to suffer any lasting impairment or restriction. Haugen had a surgical release from this injury on January 31, 2005. His recovery was full and he regained full function of that finger. Dr. David Field, who performed the trigger finger surgery, released Haugen to work with no restrictions. Furthermore, Dr. Richard Neiman, who performed an independent medical examination on Haugen, noted no post-surgical restrictions to the finger.

We conclude substantial evidence does not support that Haugen sustained any permanent injury to the right long finger. Accordingly, it was error to consider presurgical restrictions contributed to a thirty-percent loss of earning capacity. We therefore remand to the agency for a determination of industrial disability without consideration of any work restrictions to the right long finger.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.