

IN THE COURT OF APPEALS OF IOWA

No. 9-242 / 08-1775
Filed May 6, 2009

ROCKWELL COLLINS, INC.,
Petitioner-Appellant,

vs.

PATRICIA ACHEY,
Respondent-Appellee.

Appeal from the Iowa District Court for Linn County, Thomas L. Koehler,
Judge.

A company appeals a district court ruling affirming a workers' compensation decision in favor of an injured worker, claiming that the agency's fact-findings are not supported by substantial evidence. **AFFIRMED.**

Scott McLeod of Lynch Dallas, P.C., Cedar Rapids, for appellant.

Thomas Wertz of Wertz Law Firm, P.C., Cedar Rapids, for appellee.

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

VAITHESWARAN, J.

Rockwell Collins, Inc. appeals a district court ruling affirming a workers' compensation decision in favor of Patricia Achey.

I. Background Facts and Proceedings

Patricia Achey, a fifty-nine-year-old high school graduate, was employed by Rockwell Collins for more than thirty-five years, where she worked with radios of differing weights. In 2001, she sustained an on-the-job injury to her lower back. She was seen at Rockwell by Dr. Nate Brady, who continued to treat her for the next several years. He also referred her to Dr. Joseph Chen.

Approximately one year after the injury, Achey retired, stating she could not take the pain anymore. She underwent surgery, participated in physical therapy and a spine rehabilitation program for chronic pain sufferers, and received steroid injections and medication to alleviate the pain.

Prior to her 2001 work injury, Achey was diagnosed with depression. In the opinion of one professional, that condition was aggravated by the injury.

Achey petitioned for workers' compensation benefits. Following an arbitration hearing, a deputy workers' compensation commissioner found that she sustained seventy percent industrial disability, entitling her to 350 weeks of permanent partial disability benefits. Achey requested a rehearing on the ground that the deputy failed to make specific findings concerning her depression. The deputy denied the request, stating "no issue was raised regarding causal connection of claimant's depression"

On intra-agency appeal, the office of the workers' compensation commissioner rejected the deputy's conclusion that Achey's mental condition

was not at issue and found “a wealth of evidence concerning claimant’s mental condition and its causal connection to the work injury.” The commissioner further found that Achey’s 2001 injury rendered her “medically unfit for regular and gainful employment,” entitling her to permanent total disability benefits.

Rockwell Collins sought judicial review of the agency decision. The district court affirmed, and this appeal followed.

II. Analysis

The sole issue on appeal is whether the agency’s fact-findings are supported by substantial evidence. Iowa Code § 17A.19(10)(f)(1) (2005).

“Substantial evidence” is

the quantity and quality of evidence that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be serious and of great importance.

Id.

In finding Achey unfit for gainful employment, the commissioner relied on the opinion of Dr. Chen, who stated, “[R]eturn to any type of regular employment is not appropriate for you based on the nature of the flare-ups that you experience and continued significant limitation.” Rockwell Collins maintains that Dr. Chen’s opinion did not amount to substantial evidence in support of the finding because he only evaluated Achey for “quality of life” issues and “was not aware there were any work issues involved in Ms. Achey’s case.” Rockwell points to correspondence from Dr. Brady to Dr. Chen regarding work restrictions for Achey, as well as Dr. Chen’s response. In that response, Dr. Chen stated,

“We were not aware that there were any work issues involved,” and he proceeded to outline several work restrictions.

The commissioner made specific reference to this correspondence, stating, “I do not interpret the providing of restrictions as a change from [Dr. Chen’s] earlier view that employment is not appropriate for claimant.” It was the commissioner’s prerogative to weigh the evidence in this fashion. See *Dunlavey v. Econ. Fire & Cas. Co.*, 526 N.W.2d 845, 853 (Iowa 1995) (“The commissioner as trier of fact has the duty to determine the credibility of the witnesses and to weigh the evidence, together with the other disclosed facts and circumstances, and then to accept or reject the opinion.”). In particular, the commissioner could have weighed more heavily than the work restrictions Dr. Chen’s conclusion that, “[r]ealistically, if work is to be considered, the fact that she has retired for two years from this company and despite significant gains here still remains quite limited.” For this reason, we are persuaded that Dr. Chen’s statements amounted to substantial evidence in support of the agency’s fact-finding.

Rockwell Collins also contends no expert medical opinion was offered to show that Achey’s work injury was a cause or substantial aggravation of the “flare-ups” and “significant limitation” mentioned by Dr. Chen. However, Dr. Brady’s referral letter to Dr. Chen stated that the back pain began when Achey was performing a work-related function and stated, “She actually did retire somewhat earlier than she would have liked due to her pain.” These statements by Achey’s regular physician place Dr. Chen’s subsequent opinions in context and, together with those opinions, could be “deemed sufficient by a neutral,

detached, and reasonable person” to establish a causal connection between the injury and flare-ups. See Iowa Code § 17A.19(10)(f)(1).

Rockwell Collins finally maintains that Achey’s decision to retire was not caused by her work injury and she could have performed many jobs at its plants within the work restrictions provided by Dr. Chen. Dr. Brady’s letter, quoted above, supports a contrary finding, as does Achey’s testimony at the arbitration hearing. Other factors that support a finding that her decision to retire was caused by her work injury include her diagnosis of depression and its causal relation to her work injury, and the report of a vocational rehabilitation expert, who opined that “Ms. Achey has a loss to the labor market of 90–100%.” While Rockwell presented its own contradictory vocational assessments, it was again the agency’s prerogative to weigh this conflicting testimony. See *Dunlavey*, 526 N.W.2d at 853.

As substantial evidence supports the agency’s fact-findings, we affirm.

AFFIRMED.