

STATE OF MICHIGAN
COURT OF APPEALS

ROBERT M. HAYS, deceased, by JANICE HAYS,
widow,

UNPUBLISHED
November 12, 1999

Plaintiff-Appellant,

v

No. 213450
WCAC
LC No. 95-000704

HAYES ALBION CORPORATION,

Defendant-Appellee.

Before: O'Connell, P.J., and Talbot and Zahra, JJ.

PER CURIAM.

Plaintiff appeals as on leave granted, after remand from the Supreme Court, the decision of the Worker's Compensation Appellate Commission affirming the magistrate's denial of death benefits. We affirm.

On October 5, 1993, Robert Hays suffered a heart attack while working as a millwright at defendant's foundry. Decedent had suffered a previous heart attack in May 1989, and had a number of risk factors for heart disease. He was overweight, with elevated cholesterol and high blood pressure. He had a long standing smoking habit, and a history of heart disease in his family. He was given lighter millwright duties after his 1989 heart attack, but he was performing the more strenuous job of replacing a 75 pound steel wheel on a roto pourer carriage at the time of his death.

After conducting a hearing, and receiving medical evidence, the magistrate issued a decision denying benefits, finding that plaintiff failed to meet her burden of proving that the fatal heart attack was accelerated by the employment in a significant manner, as required by MCL 418.301(2); MSA 17.237(301)(2). Based on the medical testimony and the weight of the non-occupational factors, the magistrate concluded that there was no showing that the work activities were significant when compared to the other factors. The Worker's Compensation Appellate Commission affirmed and adopted the magistrate's decision, finding that it accurately reflected the law, as set forth in *Farrington v Total Petroleum, Inc*, 442 Mich 201; 501 NW2d 76 (1993), and that it was based on a careful and judicious review of the evidence presented.

Worker's compensation magistrates determine the facts pertaining to a worker's compensation claim. MCL 418.851; MSA 17.237(851). The magistrate's findings are conclusive if they are supported by competent, material, and substantial evidence on the whole record. MCL 418.861a(3); MSA 17.237(861a)(3).

This Court's review in worker's compensation cases is limited to questions of law. Findings of fact made or adopted by the WCAC are conclusive on appeal, absent fraud, if there is any competent evidence in the record to support them. *Layman v Newkirk Electric Associates, Inc*, 458 Mich 494, 498; 581 NW2d 244 (1998). A decision of the WCAC is subject to reversal if the commission operated within the wrong legal framework or if the decision was based on erroneous legal reasoning. *Bates v Mercier*, 224 Mich App 122, 124; 568 NW2d 362 (1997).

To be compensable, a heart injury must be significantly caused or aggravated by employment considering the totality of all the occupational factors, the worker's health circumstances, and non-occupational factors. *Farrington, supra*, 216-217. While temporal proximity of a cardiac episode to the work experience, physical stress, conditions of employment, and repeated return to work are factors to be considered in assessing the work contribution, these factors must be considered along with the totality of the decedent's health circumstances to analyze whether the injury was significantly caused by work-related events. *Id*, 221-222.

Despite the fact that decedent suffered his heart attack at work, where numerous other non-occupational risk factors were present, the commission was not required to find that work aggravated his condition in a significant manner. *Holden v Ford Motor Co (After Remand, On Second Remand)*, 226 Mich App 138; 572 NW2d 268 (1997). The magistrate's opinion, adopted by the appellate commission pursuant to MCL 418.861a(10); MSA 17.237(861a)(10), found as a matter of fact that decedents' work did not significantly contribute to his death. *Douglas v General Motors Corp*, 201 Mich App 501, 503; 506 NW2d 589 (1993). Given the non-occupational factors contributing to decedent's heart condition, the commission did not exceed its authority in finding that the decision of the magistrate was supported by competent evidence. *Goff v Bil-Mar Foods, Inc (After Remand)*, 454 Mich 507; 563 NW2d 214 (1997).

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael J. Talbot
/s/ Brian K. Zahra