STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0141

Keith Daniel,
Respondent,

vs.

City of Minneapolis,
Appellant.

Filed December 18, 2017
Reversed and remanded
Bratvold, Judge
Concurring specially, Hooten, Judge

Hennepin County District Court
File No. 27-CV-16-700

Joshua R. Williams, Minneapolis, Minnesota (for respondent)

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Considered and decided by Bratvold, Presiding Judge; Bjorkman, Judge; and Hooten, Judge.

U N P U B L I S H E D O P I N I O N

BRATVOLD, Judge

The City of Minneapolis (the city) appeals the district court's denial of its motion for summary judgment. The city argues that the district court lacks subject-matter

jurisdiction to hear a former employee's claims under the Minnesota Human Rights Act (MHRA). Because the Minnesota Supreme Court has ruled that the exclusivity provision of the Workers' Compensation Act (WCA) precludes subject-matter jurisdiction over MHRA claims arising from a WCA-compensable injury, we reverse the district court's decision to deny the city's motion for summary judgment and remand for further proceedings on respondent's remaining claims.

FACTS

Respondent Keith Daniel worked as a firefighter with the Minneapolis Fire Department (the fire department). From 2007 until the end of his tenure with the fire department in July 2015, Daniel suffered numerous work-related injuries, including several ankle injuries for which he filed a WCA claim. Following an independent medical examination in 2014, the doctor concluded that Daniel's ankle was "aggravated by numerous events at work, such as walking on uneven surfaces, as well as wearing heeled shoes." Daniel's own doctor prescribed that he wear "tennis shoes with arch support + high rescue boot high ankle" to avoid future injuries.

The prescription to wear tennis shoes led to prolonged discussions between Daniel and the fire department. Daniel asked to wear tennis shoes while in the station house, but the fire department denied his request, citing its dress code. Despite numerous meetings between 2014 and 2016, Daniel and the fire department never agreed on a shoe that satisfied both parties. In January 2015, Daniel began to receive workers' compensation payments.

In December 2015, Daniel sued the city alleging two primary theories of recovery.[1] First, Daniel claimed that the fire department violated the MHRA by discriminating against him based on his disability, failing to accommodate his disability, and retaliating against him for engaging in MHRA-protected conduct. Second, Daniel alleged that the fire department violated the WCA by retaliating against him for seeking workers' compensation benefits and failing to provide continued employment when it was available.

In March 2016, the city applied on Daniel's behalf for him to receive early retirement benefits because he was unable to perform firefighter duties as a result of the injuries he had suffered in the course of his employment with the city. The application was approved and Daniel retired shortly thereafter. Daniel settled his workers' compensation claim in June 2016. The agreement was a "full, final, and complete settlement now and forever of any and all of [Daniel's] claims related to his work-related injury, that [Daniel had] made, or could make under the Minnesota Workers' Compensation Act" in exchange for $125,000, plus costs.

In August 2016, the city filed a motion for summary judgment, arguing that the district court lacked subject-matter jurisdiction over Daniel's MHRA claims due to the

[1] Initially, Daniel alleged a third theory of recovery, that he is entitled to relief under the Americans with Disability Act, 42 U.S.C. §§ 12101 to 12213 (2012). The city removed to federal court. Daniel voluntarily dismissed that action without prejudice and refiled his state-law claims in Hennepin County District Court.

exclusivity provision in the WCA. The district court disagreed and denied the city's motion. The city appeals.[2]

D E C I S I O N

I. Appellate jurisdiction and standard of review

Usually, a party may not appeal a decision denying summary judgment. *Advanced Delivery Sys., Inc. v. Jaime*, 774 N.W.2d 176, 177 (Minn. App. 2009). An order denying summary judgment based on subject-matter jurisdiction, however, is immediately appealable. *Id.* The exclusivity provision of the WCA limits subject-matter jurisdiction. *See McGowan v. Our Savior's Lutheran Church*, 527 N.W.2d 830, 832-34 (Minn. 1995) (stating that a motion to dismiss under the exclusivity provision of the WCA was "a motion based on subject-matter jurisdiction"). This court reviews issues of subject-matter jurisdiction de novo. *State ex rel. Swan Lake Area Wildlife Ass'n v. Nicollet Cty. Bd. of Cty. Comm'rs*, 711 N.W.2d 522, 525 (Minn. App. 2006), *review denied* (Minn. June 20, 2006).

II. The WCA provides Daniel's exclusive remedy and thus precludes his MHRA disability claim arising from the same workplace injury.

The WCA reflects a series of compromises between workers and their employers. *Stringer v. Minn. Vikings Football Club, LLC*, 705 N.W.2d 746, 754 (Minn. 2005). Under the WCA, workers streamlined their ability to obtain compensation from their employers for injuries suffered in the workplace, for example, by not requiring proof of fault. *Karst*

[2] The district court has stayed the trial court proceedings pending the outcome of this appeal.

v. F.C. Hayer Co., 447 N.W.2d 180, 183-84 (Minn. 1989). In exchange, employers are no longer subject to civil suits for claims arising out of workplace injuries if a worker may recover workers' compensation benefits. *Id.* [3] Minn. Stat. § 176.031 (2016) provides, "The liability of an employer prescribed by this chapter is exclusive and in the place of any other liability to such employee, personal representative, surviving spouse, parent, any child, dependent, next of kin, or other person entitled to recover damages on account of such injury or death." The Minnesota Supreme Court has interpreted Minn. Stat. § 176.031 to require that "[i]f an employee suffers a personal injury or death arising out of and in the course of her employment, the [WCA] provides the employee's exclusive remedy," and that the district court lacks subject-matter jurisdiction to hear claims outside the WCA. *McGowan*, 527 N.W.2d at 833.

The legislature has adopted explicit exceptions to the WCA's exclusivity provision. For example, the WCA provides that an employee may bring a civil action if an employer retaliates against an employee for seeking workers' compensation benefits, obstructs the employee from seeking benefits, or refuses to offer continued employment within an injured employee's physical limitations. Minn. Stat. § 176.82 (2016). Another statutory exception to WCA exclusivity allows an employee to file a civil suit if an employee's injuries are caused by the gross negligence of a coemployee or an employer's intentional conduct. Minn. Stat. § 176.061, subd. 5(e) (2016); *Meintsma v. Loram Maintenance of*

[3] Employees with WCA-compensable injuries cannot choose between workers' compensation and other state law protections like the MHRA. *See, e.g.*, *Stringer*, 705 N.W.2d at 754 (holding that "[t]he employer's liability to pay compensation 'is exclusive and in the place of any other liability'") (quoting Minn. Stat. § 176.031 (2004)).

Way, Inc., 684 N.W.2d 434, 440 (Minn. 2004). And, finally, the WCA exclusivity provision does not bar an employee's injury claim if an employer is uninsured. Minn. Stat. § 176.031.

The Minnesota Supreme Court has ruled that the WCA exclusivity provision bars an employee's MHRA claim against his former employee for disability discrimination. *Karst*, 447 N.W.2d at 183, 186-87. Karst worked as a warehouseman, suffered a shoulder injury, was released to return to work with restrictions, but his employer refused to rehire him. *Id.* at 182-83. Relying on the WCA exclusivity provision, the supreme court affirmed summary judgment against the employee and rejected his MHRA claims. *Id.* at 186-87.

Similarly, this court held that a former employee's disability discrimination claim was barred in *Benson v. Nw. Airlines, Inc.*, 561 N.W.2d 530, 540-41 (Minn. App. 1997), *review denied* (Minn. June 11, 1997). Benson had suffered a workplace injury, received a transfer due to medical restrictions, and continued working for over five months before his employer discharged him. *Id.* at 533-34. Relying on *Karst*, we held that the WCA's exclusivity provision precluded Benson's MHRA disability discrimination claim. *Id.* at 540-41. Because Benson's injuries "formed the basis for both his discrimination claim and his workers' compensation claims," we affirmed the district court's decision rejecting his MHRA claim. *Id.*

Like the MHRA claims considered in *Karst* and *Benson*, Daniel's MHRA claims are based on a workplace injury that is compensable under the WCA. As a result, we

conclude that the district court does not have subject-matter jurisdiction over Daniel's MHRA claims.[4]

III. Daniel's arguments are unavailing.

Daniel advances three contentions in support of the district court's decision. First, Daniel contends that intervening changes in the law mean that *Karst* no longer binds this court. Second, Daniel claims that his MHRA claims arise from an injury that is legally distinct from his workplace injury. Third, Daniel asserts that we should distinguish his MHRA claims from similar claims raised in *Karst* and *Benson* because Daniel had an "on-going" employment relationship with the city. We will address each contention in turn.

A. *Karst* remains binding precedent.

Daniel argues that that subsequent amendments to the MHRA have "abrogated" *Karst*. Like the WCA, the MHRA has an exclusivity provision. The MHRA provides that, "as to acts declared unfair by [the MHRA], the procedure herein provided shall, while pending, be exclusive." Minn. Stat. § 363A.04 (2016). In *Karst*, the supreme court considered the exclusivity provisions of the MHRA and the WCA and deemed them to be in conflict. *Karst*, 447 N.W.2d at 186. The court noted that, when two statutes conflict, the court will usually give effect to the statute passed most recently. *Id.* (citing Minn. Stat. § 645.26, subd. 4 (1988)). At the time *Karst* was decided, the MHRA exclusivity provision had been more recently enacted. *Id.* But *Karst* held that this "rule of construction" "offered

[4] The city contends that Daniel agreed to settle his MHRA claims as a part of the settlement of his workers' compensation claim. We disagree because the language in the settlement agreement limits the scope of the settlement to Daniel's WCA claims.

little guidance" because both the WCA and the MHRA were "substantially amended in the same 1983 legislative session." *Id.*

Daniel contends that the MHRA has been "substantially amended" since *Karst* was decided and more recently than the WCA. Under *Karst*'s own logic, according to Daniel, subsequent amendments to the MHRA have effectively "abrogated" *Karst*, and the MHRA exclusivity provision now prevails over the WCA exclusivity provision.

But *Karst* held that the WCA exclusivity provision prevails over the MHRA exclusivity provision. In fact, *Karst* declared that the WCA exclusivity provision was of "vital importance" and "in the absence of clear legislative intent to impose [MHRA] liability in addition to that under the [WCA], we decline to interpret the [MHRA] as applicable here." *Id.* at 186. *Karst* is binding precedent, the supreme court has not overruled it, and this court has no authority to challenge the rulings of the supreme court. *See Wolner v. Mahaska Indus.*, 325 N.W.2d 39, 41 (Minn. 1982) (stating that supreme court decisions are "applicable in all future controversies involving the same legal question until and unless [the supreme court] overrules its opinion").

Additionally, *Karst* invited the legislature to amend the WCA's exclusivity provision if it disagreed with the supreme court's ruling. *Karst*, 447 N.W.2d at 186 ("If we have incorrectly defined the legislative intent, the legislature may quickly correct us."). We "presume that the legislature acts with full knowledge of previous statutes and existing caselaw." *Pecinovsky v. AMCO Ins. Co.*, 613 N.W.2d 804, 809 (Minn. App. 2000), *review denied* (Minn. Sept. 26, 2000). While the legislature has amended the MHRA and the WCA since *Karst* was issued, it has taken no action to supersede *Karst*. If the legislature does not

act to override a decision of the Minnesota Supreme Court, "we assume that the [l]egislature has acquiesced in [the supreme court's] interpretation." *Engquist v. Loyas*, 803 N.W.2d 400, 406 (Minn. 2011). Because the legislature has authorized exceptions to WCA exclusivity, and has taken no action to create an exception to WCA exclusivity for suits based on disability discrimination, we conclude that *Karst* has not been superseded and is binding precedent.

B. Disability discrimination is not "separate and distinct" from a workplace injury that is compensable under the WCA.

Daniel argues that his injuries under the WCA are separate and distinct from his injuries under the MHRA and, consequently, the WCA does not bar his MHRA claims. In other words, Daniel argues that he received workers' compensation benefits for his ankle injuries, but his MHRA claim is for the injuries he suffered as a result of his employer's discriminatory conduct.

Daniel relies on *Hunter v. Nash Finch Co.*, which distinguished *Karst* on the ground that the injuries upon which Hunter brought his MHRA and WCA claims were "separate and distinct damages" deserving "separate scrutiny under the MHRA." 498 N.W.2d 759, 763 (Minn. App. 1993). *Hunter* also suggested in dicta that "injuries sustained from . . . discrimination can be separated from the subsequent physical injury" and that "the WCA does not provide a remedy for these Human Rights Act injuries." *Id.* at 762.

We reject Daniel's attempts to tie his case to *Hunter*. First, there are key factual distinctions between *Hunter* and Daniel's case. In *Hunter*, the employee brought his WCA and MHRA claims based on actually distinct physical injuries suffered in the course of

employment for two distinct employers. *Id.* at 760-61. Hunter received workers' compensation for carpal tunnel that he developed in his *right hand*. *Id.* Later, Hunter brought an MHRA claim for his employer's failure to accommodate a *left hand* injury that he sustained while working for a different employer eight years earlier. *Id.* In contrast, Daniel suffered his injuries in the scope of employment for one employer, the city, and the same physical injuries gave rise to both his MHRA and WCA claims.

Second, *Benson* forecloses Daniel's argument that his injuries under the WCA and MHRA are "separate and distinct." In *Benson*, this court distinguished *Hunter* and held that the WCA precluded Benson's MHRA claims because Benson did *not* base his WCA and MHRA claims on separate physical injuries suffered in the course of employment for two separate employers. 561 N.W.2d at 540-41. Like Daniel, Benson suffered physical injuries in the course of employment for one employer, and he based his MHRA claims on discrimination that arose from that injury. *Id.* We are unable to distinguish Benson's MHRA claim from Daniel's MHRA claim. And this court adheres to our own previous published decisions. *JPMorgan Chase Bank, N.A. v. Erlandson*, 821 N.W.2d 600, 608 (Minn. App. 2012). Thus, we will apply *Benson* to Daniel's MHRA claims. *See Benson*, 561 N.W.2d at 540-41. Accordingly, Daniel's WCA-compensable injury is not a "separate and distinct" injury from the injury giving rise to his MHRA claims.

C. Daniel's MHRA claim is not different because he had an on-going employee/employer relationship.

Daniel argues that *Karst* does not apply because Daniel and the fire department had an on-going employee/employer relationship, unlike Karst and his employer.[5] The district court agreed with Daniel and explained its reasoning by referring to a trial court order and memorandum entered in a different case, *Oliver v. Minneapolis Community & Technical College*. No. 27-CV-13-21320 (Minn. Dist. Ct. Feb. 17, 2015).[6] In *Oliver*, the district court determined that it had subject-matter jurisdiction over an employee's MHRA claims. *Oliver* distinguished *Karst* because Oliver's employer "*had* to take her back" after her leave ended under the Family Medical Leave Act. *Id.* at 15. Here, the district court reasoned that Daniel was like Oliver, who had no WCA remedy for her discrimination claim after she

[5] Daniel supports this assertion, in part, by citing to an unpublished decision, *Lundy v. Browning-Ferris Industries*, No. C9-93-627, 1993 WL 355615 (Minn. App. Sept. 14, 1993). But unpublished cases are not precedential. *See* Minn. Stat. § 480A.08, subd. 3(c) (2016); *Vlahos v. R&I Constr. of Bloomington, Inc.*, 676 N.W.2d 672, 676 n.3 (Minn. 2004).

[6] *Oliver* correctly noted that the Wisconsin Supreme Court has overruled a Wisconsin Court of Appeals case that *Karst* cited to support its reasoning. *See Karst*, 447 N.W.2d at 186 (citing *Schachtner v. Dept. of Indus., Labor, and Human Relations*, 422 N.W.2d 906 (Wis. Ct. App. 1988), *overruled by Byers v. Labor and Indus. Review Comm'n*, 561 N.W.2d 678, 685 (Wis. 1997)). Changes in Wisconsin caselaw do not affect our analysis because the more recent Wisconsin case is distinguishable from Daniel's case. In *Byers*, the employee sued her employer on the basis of emotional injuries resulting from sex discrimination, not on the basis of a workplace injury. 561 N.W.2d at 680. Unlike Wisconsin law, the Minnesota WCA does not compensate mental or emotional injuries "caused by work-related stress without physical trauma." *Lockwood v. Indep. Sch. Dist. No. 877*, 312 N.W.2d 924, 926 (Minn. 1981). Consequently, in Minnesota, sexual harassment claims like that alleged in *Byers* are not compensable under the WCA, and the WCA exclusivity provision does not apply.

returned to work. While we will not comment on *Oliver* because it is not before us, we will address the legal issue analyzed by the district court in this case.

For three reasons, we reject Daniel's argument that his on-going employee/employer relationship with the city set his case apart from *Karst*. First, Daniel's relationship with his former employer is not materially different from the employee in *Karst*. Daniel correctly states that he sued the city for alleged discrimination that occurred during his employment and that he received WCA benefits while still an employee. The employee in *Karst* also sued his employer for alleged discrimination that occurred during his employment and received WCA benefits while still an employee. 447 N.W.2d at 182-83. Daniel's MHRA claim is that the city did not allow him to work as a firefighter with accommodations for the footwear his doctor prescribed. Similarly, Karst's specific complaint was that his employer did not allow him to return to work with accommodations for his restrictions as a result of a workplace injury. *Id.* at 183. Daniel returned to work and Karst did not, but both raised disability-discrimination claims.

Second, *Karst* did not limit WCA exclusivity to bar MHRA claims only when the employer has refused to rehire the injured employee. Both Karst *and* Benson had on-going employee/employer relationships after they suffered WCA-compensable injuries. *Karst*, 447 N.W.2d at 182; *Benson*, 561 N.W.2d at 534. *Benson* explained that the same disability "formed the basis for both [Benson's] discrimination claim and workers' compensation claims." *Id.* at 541. Accordingly, we reject Daniel's argument that *Karst* does not control

his case because he and the fire department had an on-going employee/employer relationship.[7]

Third, Daniel's argument is based on the false assumption that employees forgo all state law remedies for discriminatory conduct by accepting WCA-injury compensation. The district court quoted *Oliver* and stated that "tremendous absurdities" would result if the court "extended *Karst*" and allowed employers to "engage in blatant discrimination with impunity" because employees would have "signed away [state law protections] by accepting WCA injury compensation." While discrimination remedies under the WCA differ from those under the MHRA, the legislature has provided remedies. The WCA protects against employer discrimination by authorizing a civil action when an employer has failed to accommodate a workplace injury and/or retaliates against an employee for seeking WCA benefits. Minn. Stat. § 176.82. In fact, Daniel has sued the city and alleged both failure to accommodate and retaliation under section 176.82. Daniel's WCA-discrimination claims have survived summary judgment and will be litigated upon remand.

For the foregoing reasons, the district court does not have subject-matter jurisdiction over Daniel's claims under the MHRA, which are barred by the WCA exclusivity provision. Accordingly, we reverse the district court's decision to deny summary judgment

[7] Daniel argues that no previous decision has expressly held that the WCA bars MHRA retaliation claims. We are not persuaded because Daniel offers no principled reason to distinguish MHRA retaliation claims from other MHRA claims.

and remand for further proceedings on Daniel's remaining claims, consistent with this opinion.

Reversed and remanded.

HOOTEN, Judge (concurring specially)

I concur in the majority's decision to reverse the district court's denial of summary judgment to the City of Minneapolis. I write specially, however, because I question whether the Workers' Compensation Act's (WCA) exclusivity provision, Minn. Stat. § 176.031 (2016), may prohibit an employee's Minnesota Human Rights Act (MHRA) claims against his employer when he continues to have an "on-going" working relationship with that employer and the employer discriminates against the employee because of his work-related disability.

The Minnesota Supreme Court in *Karst v. F.C. Hayer Co.* held that, where the employer refused to rehire an employee after a work-related injury or otherwise provide the employee with employment within his medical restrictions, the employee's exclusive remedy was under the WCA. 447 N.W.2d 180, 186 (Minn. 1989). The syllabus in *Karst* specifically provides that, "The exclusive remedy provision of the Minnesota Workers' Compensation Act precludes a separate action by an injured employee against his former employer for disability discrimination under the Minnesota Human Rights Act where the employer refused to rehire employee following a work-related injury." *Id.* at 181. And, this court in *Benson v. Nw. Airlines, Inc.*, in a holding that was broader than that in *Karst*, concluded that where "the same disability—the aggravation of Benson's shoulder condition—formed the basis for both his discrimination claim and workers' compensation claims," Benson's exclusive remedy was under the WCA and he was precluded from bringing a claim under the MHRA. 561 N.W.2d 530, 540–41 (Minn. App. 1997), *review denied* (Minn. June 11, 1997).

However, this court in *Lundy*, an unpublished decision, distinguished *Karst* and ruled that the exclusivity provision did not bar Lundy's age discrimination claim. *Lundy v. Browning-Ferris Inds. of Minn.*, No. C9-93-627, 1993 WL 355615 (Minn. App. Sept. 14, 1993). In *Lundy*, this court determined that because the employer placed Lundy into a different position, rather than refusing to rehire him, the WCA's exclusive remedy provision did not apply to Lundy because it did not provide him with a remedy. *Id.* at *2. While I recognize that *Lundy* lacks precedential value, *see* Minn. Stat. § 480A.08, subd. 3(c) (2016), the decision highlights a difference between workers who were prohibited from bringing discrimination claims for failure to be rehired and workers who remained employed but alleged further discrimination during the continued course of their employment.

But I nevertheless concur with the majority's decision because, like *Karst* and *Benson*, Daniel was not involved in an on-going employment relationship with his employer. Rather, he had accepted an early retirement package and then ultimately settled, on a global basis, his workers' compensation claims. In doing so, his inability to continue working for his employer that refused to accommodate his disability is factually more in line with *Karst* and *Benson*. Moreover, as the majority emphasizes near the end of its opinion, Daniel is not without remedies for alleged discrimination. Minn. Stat. § 176.82, subd. 2 (2016) provides that, "An employer who, without reasonable cause, refuses to offer continued employment to its employee when employment is available within the employee's physical limitations shall be liable in a civil action for one year's wages." Accordingly, though he does not have a basis to claim discrimination under the MHRA,

Daniel's discrimination claims pursuant to Minn. Stat. § 176.82, subd. 2, remain intact and he will have an opportunity to continue litigating these claims on remand.