

Iowa Court of Appeals Decision

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Case Title: PATRICIA MARY **HART**, Petitioner-Appellant, vs. ALLIED SYSTEMS, LTD., Respondent-Appellee.

Date: 07/19/2002 Number: 1-792 / 00-2106

Decision: Appeal from the Iowa District Court for Polk County, Arthur E. Gamble, Judge.

The petitioner appeals from the district court's ruling on judicial review affirming the workers' compensation commissioner's decision denying the petitioner workers' compensation benefits arising from the death of her husband who was employed by the respondent. **AFFIRMED.**

Stephen D. Lombardi of Lombardi Law Firm, Des Moines, for appellant.

Joseph A. Quinn of Nyemaster, Goode, Voigts, West, Hansell & O'Brien, P.C., Des Moines, for appellee.

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

MILLER, J.

Patricia Mary **Hart** appeals from the district court's ruling on judicial review affirming the workers' compensation commissioner's decision denying her workers' compensation benefits arising from the death of her husband who had been employed by Allied Systems, Ltd. **Hart** claims the district court applied an incorrect legal standard in determining that her husband's employment was not the legal cause of his heart attack and death and his death was thus not compensable. She also claims she should have been awarded penalty benefits. We affirm.

I. BACKGROUND FACTS

Patricia Mary **Hart** (**Hart**) was the wife of Marvin **Hart** (Marvin). Marvin had worked for Allied Systems, Ltd. (Allied) for approximately twenty-one years driving a tractor and semi-trailer hauling new vehicles from Allied's terminal in Kansas City, Missouri to dealers throughout the country. His job required operating hydraulic levers, climbing steps, pulling out ramps over which the vehicles were driven, and moving steps. Although Marvin worked and was dispatched out of Allied's terminal outside Kansas City he resided with his wife in Harlan, Iowa.

After spending the weekend at home in Harlan, Marvin returned to work in Kansas City on May 1, 1995. Marvin was unable to actually get on the road until May 3 because his truck was in the shop for repairs. The maintenance record, including the "Driver's Daily Vehicle Condition Report" which was signed by Marvin, shows that the truck was in the shop for repair of the air conditioner,

packing of the wheel bearings, and a tire inspection. Although **Hart** claims that Marvin called her and told her the truck's hydraulic system was being looked at in the shop neither Marvin nor the repair shop noted any problem with the hydraulic system or any work on it.

On May 1, 1995 while waiting for the truck to be repaired Marvin was seen at Liberty Family Medical Services complaining of a sinus infection. At that time his blood pressure was recorded as being 162/102 and his weight at 246 pounds. Marvin had a history of high blood pressure and was on medication for this condition. It was also determined at this visit that Marvin's dosage of blood pressure medication should be doubled.

Marvin left Kansas City on May 3, 1995 and according to his driver's log drove for seven hours that day making several deliveries. **Hart** testified that Marvin called her that evening and told her he was having problems with hydraulics on one of the ramps and he had to get underneath the ramp to physically push it into place with his shoulder. **Hart** also testified that Marvin indicated this had caused him to have pain in his back and shoulder.

On May 4, 1995 Marvin made his last drop-off in Niobrara, Nebraska, and headed back towards the terminal in Kansas City. His driving records indicate he stopped in Sioux City, Iowa at 1:30 p.m. where he went off duty for an hour for lunch. After lunch Marvin called his wife and told her he was experiencing shoulder pain, back pain, and had severe heartburn. Marvin then called Allied's terminal manager in Kansas City, Gerald Goll. Goll testified that Marvin told him

at that time he did not feel well and needed to see a doctor, but also indicated that he wanted to try to make it back to his home in Harlan. Goll stated he told Marvin to either go to a doctor or go home and not to worry about the truck because they would get it back.

Marvin then drove from Sioux City to Harlan which is approximately a two hour drive. After parking his truck at a local muffler shop he was picked up by his wife and taken to Myrtue Memorial Hospital in Harlan. The admission form stated that Marvin was complaining of pain across his upper chest in his sternum. It also noted that he denied having a history of heart problems but had been experiencing short episodes of chest pain over the past year. Marvin was diagnosed with a septal myocardial infarction and was transferred to St. Joseph's Hospital in Omaha, Nebraska, on May 5, 1995.

At St. Joseph's the history taken from Marvin noted that over the past few months he had been experiencing shortness of breath with exertion but denied any prior chest pain episodes. Marvin underwent an angiogram and angioplasty procedure at St. Joseph's on May 6, 1995. During the angioplasty Marvin's right coronary artery became dissected with the guide and as a result emergency coronary artery bypass grafting was necessary. The hospital notes state Marvin "tolerated surgery fairly well" however after surgery his condition deteriorated. After suffering a brain stem stroke, a right ventricular infarction and renal failure Marvin was taken off of life support and died on May 8, 1995. The cause of death was listed as cardiac arrest as a result of a myocardial infarction as a consequence of coronary artery disease.

Hart filed a petition seeking workers' compensation benefits from Allied with the workers' compensation commission on May 1, 1997. **Hart** claimed the heart attack which caused Marvin's death was work related and sought medical and death benefits. A hearing was held on the matter before a deputy industrial commissioner and the deputy denied Hart's claims in their entirety. The deputy found in relevant part: Marvin had a pre-existing coronary artery disease; his job did not involve greater stress than an average person's everyday non-employment activities; **Hart** had not proven Marvin performed extraordinarily hard work on May 3; and since the terminal manager told Marvin he should either see a doctor or go home Marvin was not impelled to keep working after the onset of the heart attack.

Hart appealed the deputy's decision to the workers' compensation commissioner who affirmed the decision and adopted it as the final agency decision on September 2, 1999. In doing so the commissioner agreed with **Hart** that, as related to the issue raised on intra-agency appeal, "the test is *whether claimant's decedent felt impelled to continue driving* after the onset of heart attack symptoms." (Emphasis added.) The commissioner found that Marvin "was not impelled to continue driving for his employer." **Hart** filed a petition for judicial review of the agency action with the district

court alleging the commissioner applied the incorrect legal causation standard and that the commissioner should have awarded penalty benefits. The district court affirmed the commissioner's denial of benefits to **Hart**. The court concluded the

commissioner properly determined that Marvin's heart attack was not compensable because he was neither working at the time the symptoms began nor was he in any way impelled to continue to engage in exertions required by his employment after the onset of the symptoms. **Hart** appeals from the district court's ruling.

II. STANDARD OF REVIEW

Our scope of review of final agency action is governed by Iowa Code chapter 17A and is confined to correction of errors of law. Iowa Code §17A.19 (1999); *Pointer v. Iowa Dep't of Transp.*, 546 N.W.2d 623, 625 (Iowa 1996). The principles underlying judicial review of an agency decision provide that when a district court exercises the power of judicial review conferred by Iowa Code section 17A.19 it is functioning in an appellate capacity to correct errors of law, as specified in section 17A.19(8). *Harlan Sprague Dawley, Inc. v. Iowa State Bd. of Tax Review*, 601 N.W.2d 66, 68 (Iowa 1999). Therefore, when we review a decision a district court rendered pursuant to 17A.19 the sole question is whether the district court correctly applied the law. *Id.* "In order to make that determination, this court applies the standards of section 17A.19(8) to the agency action to determine whether this court's conclusions are the same as those of the district court." *Id.* (quoting *Foods, Inc. v. Iowa Civil Rights Comm'n*, 318 N.W.2d 162, 165 (Iowa 1982)).

We will uphold an agency's action against a claim it is unsupported by substantial evidence in the record made before the agency when the record is viewed as a whole if a reasonable person could accept the evidence as adequate to reach the findings made by the agency. *Pointer*, 546 N.W.2d at 625.

[E]vidence is not insubstantial merely because it would have supported contrary inferences. Nor is evidence insubstantial because of the possibility of drawing two inconsistent conclusions from it. The ultimate question is not whether the evidence supports a different finding but whether the evidence supports the findings actually made.

City of Hampton v. Iowa Civil Rights Comm'n, 554 N.W.2d 532, 536 (Iowa 1996). Therefore, if the agency's findings of fact are supported by substantial evidence, those findings are binding on us. *Id.*

III. MERITS

It is undisputed that Marvin had pre-existing coronary artery disease. In Iowa an employee with a pre-existing heart condition or defect can recover workers' compensation for a work related heart attack if both medical and legal causation are shown. *Riley v. Oscar Mayer Foods Corp.*, 532 N.W.2d 489, 492 (Iowa Ct. App. 1995).

The legal test circumscribes the kind of work or exertion which must be present before the injury will be considered to have arisen out of the employment. It supplies the necessary causation between the work performed and the injury. The medical test requires medical evidence that the exertion or work in fact caused the heart attack.

Id. (citations omitted).

The legal causation component of the analysis can be satisfied under one of three circumstances. The first situation is when heavy exertions ordinarily required by work are superimposed on a defective heart thereby aggravating or accelerating the pre-existing condition. *Id.* This exertion must be greater than that in the employee's non-employment life. *Id.* The second situation involves an instance of unusually strenuous employment exertion imposed upon the pre-

existing condition. *Id.* It must be shown here that the work exertion performed just prior to the onset of symptoms was greater than the employee's normal work exertion. *Id.* The final situation supporting compensation is when the damage resulted from continued exertions required by employment after the onset of the heart attack. *Id.* Under this final situation, "the causal contribution of the employment to the

heart attack exists when the employee, for some reason, feels impelled to continue with his or her duties after experiencing symptoms of a heart attack." *Id.*

As noted above the agency found Marvin's job activities were no more stressful than the average person's non-employment activities and that **Hart** had failed to prove Marvin performed extraordinarily hard work on May 4, 1995. **Hart** did not challenge either of these findings on judicial review or on appeal. The only issue posed by **Hart** to the district court, and thus the only issue before us now on appeal, was whether the commissioner correctly determined that Marvin's injury was not compensable because he did not feel impelled to continue working after the onset of symptoms. Specifically, **Hart** argues the agency and the district court applied an incorrect legal standard because the decision to deny benefits incorrectly focused on what the Allied supervisor (Goll) thought or said rather than focusing on whether Marvin felt impelled to continue working.

Hart is correct that the proper legal test is whether Marvin felt impelled to continue working after the onset of the heart attack symptoms, and Goll's view as to whether Marvin felt impelled is not controlling. However, Goll's testimony

concerning the conversation he had with Marvin is relevant to the issue of whether Marvin felt he was impelled to continue working. His testimony constitutes substantial evidence that Marvin should not have felt impelled to continue working, evidence from which the commissioner could reasonably infer Marvin did not feel so impelled.

In addition, Marvin's actions following his conversation with Goll provide substantial evidence he did not feel impelled to continue working. He called Goll and requested not to continue his duties because he was not feeling well and thought he needed to see a doctor. Goll told him he could either go home or go to a doctor and not to worry about the truck. The choice at that point as to where to go to the doctor was completely Marvin's. However, regardless of where he chose to visit the doctor there is substantial evidence he had no intention of continuing on with his job duties (to drive the truck from Sioux City back to Kansas City) at that point. Marvin never logged back in on his time sheet after lunch at Sioux City nor did he attempt to drive to Kansas City. He drove the truck directly to Harlan, parked it at the muffler shop, and immediately called his wife to come take him to the hospital.

Although Marvin's decision to drive home to Harlan before seeking medical attention may have caused additional damage to his heart, both Goll's testimony regarding his instructions to Marvin and Marvin's subsequent actions constitute substantial evidence supporting a finding that Marvin did not feel impelled to continue his job duties.

To this point our discussion of the merits has focused on whether the agency's findings and decision are supported by substantial evidence. Hart's challenge is, however, a claim that the agency and the district court applied "an incorrect legal standard," a claim which fits more properly within Iowa Code section 17A.19(8)(e) ("affected by . . . error of law") than within section 17A.19(8)(f) ("substantial evidence"). The commissioner found that "[Marvin] was not impelled to continue driving for his employer." If viewed in isolation this finding, as **Hart** argues, can be seen as focusing on Marvin's employer's motives or actions rather than correctly focusing on whether *Marvin felt impelled* to continue working. *See Riley*, 532 N.W.2d at 492 ("[T]he causal contribution of the employment to the heart attack exists when the employee, for some reason, *feels impelled* to continue with his or her duties after experiencing symptoms of a heart attack.") (emphasis added) (citing *Sondag v. Ferris Hardware*, 220 N.W.2d 903, 906 (Iowa 1974)). We will not, however, view this finding by the commissioner in isolation from the remainder of the agency decision. This is because we broadly and liberally construe an agency's factual findings so as to uphold, rather than defeat, the agency's decision. *Bridgestone/Firestone v. Accordino*, 561 N.W.2d 60, 62 (Iowa 1997); *Holmes v. Bruce Motor Freight*, 215 N.W.2d 296, 298 (Iowa 1974); *Riley*, 532 N.W.2d at 491.

Just before her finding that Marvin was not impelled to continue driving for his employer the commissioner correctly identified the appropriate legal test as "whether [Marvin] *felt impelled* to continue driving after the onset of heart attack symptoms." (Emphasis added.) We view and construe this finding in context, that is in combination with the commissioner's correct statement of the legal test.

In doing so we construe the commissioner's finding to be a finding that Marvin did not *feel impelled* to continue driving for his employer after experiencing the heart attack symptoms. We conclude the commissioner did not apply an incorrect legal standard. This conclusion renders moot the appellant's claim concerning penalty benefits.

AFFIRMED.

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