

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1426**

Mikel Hehn,
Appellant,

vs.

Allied Insurance,
Respondent.

**Filed March 29, 2011
Reversed
Stauber, Judge**

Stearns County District Court
File No. 73CV10926

Michael A. Bryant, Bradshaw & Bryant, P.L.L.C., Waite Park, Minnesota (for appellant)

Jerry D. Van Cleave, Law Office of Settano & Van Cleave, Bloomington, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Stauber, Judge; and Crippen, Judge.*

UNPUBLISHED OPINION

STAUBER, Judge

In an appeal from a district court order vacating a no-fault arbitration award on the basis that the findings of a workers' compensation judge barred appellant's recovery of

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

no-fault wage-loss benefits, appellant argues that workers' compensation findings cannot collaterally estop a no-fault award because the laws are too dissimilar. We reverse.

FACTS

The material facts of this case are undisputed. On August 24, 2007, appellant Mikel Hehn was injured when the vehicle he was driving was rear-ended at a stop light. The vehicle was owned by appellant's employer, Petron Vending, and appellant was acting within the course and scope of his employment at the time of the accident. Respondent Allied Insurance provided no-fault insurance for the vehicle. After the accident, appellant continued to work for Petron Vending with no restrictions until his employment was terminated on November 23, 2007.

On April 15, 2008, appellant filed a claim with the Workers' Compensation Division seeking medical benefits and temporary total and temporary partial disability benefits. Appellant's claim was heard by a compensation judge on August 11, 2009. The compensation judge issued findings and an order on October 9, 2009, determining that appellant sustained only temporary injuries to his neck and low back as a result of the accident. The judge determined that the accident caused a temporary aggravation of appellant's preexisting neck and back conditions which lasted for only three months. The judge further determined that any disability or need for medical care after November 24, 2007, was not substantially related to the 2007 accident and thus denied appellant's wage-loss claims and awarded medical expenses only for the period of the temporary aggravation. This decision was affirmed by the Workers' Compensation Court of

Appeals. *Hehn v. Petron*, No. WC 09-5013, 2010 WL 3284719 (Minn. Workers' Comp. Ct. App. July 22, 2010).¹

On March 31, 2009, while his workers' compensation claim was pending, appellant filed a claim for no-fault arbitration, seeking wage-loss benefits from respondent. Respondent had paid appellant \$9,250 in wage-loss benefits from the date of the accident through May 8, 2008, and appellant sought additional benefits for the period of May 9, 2008 through January 26, 2009. The arbitration hearing was held on September 10, 2009. Before the no-fault arbitrator issued a decision, the parties provided the arbitrator with the October 2009 workers' compensation findings and submitted arguments regarding their effect on the no-fault proceeding. On November 4, 2009, the arbitrator awarded appellant the full amount of claimed wage losses plus interest and costs, totaling \$10,582.36. Respondent then moved the district court to vacate the award, arguing that the arbitrator exceeded his authority by determining that the no-fault claim was not barred by collateral estoppel or res judicata. The district court granted the motion, finding that appellant was collaterally estopped from receiving no-fault wage-loss benefits because the workers' compensation judge had already made a final determination denying workers' compensation wage-loss benefits. This appeal followed.

¹ The Workers' Compensation Court of Appeals (WCCA) affirmed the denial of appellant's wage-loss claims. *Hehn*, 2010 WL 3284719, at *9. Unrelated to the issues in this appeal, the WCCA reversed the compensation judge's findings on an issue regarding the status of appellant's employer as a sub-contractor of a state agency. *Id.* at *12.

DECISION

Under Minnesota's No-Fault Automobile Insurance Act (no-fault act), Minn. Stat. §§ 65B.41–.71 (2010), an arbitrator has authority to determine facts and apply the law to those facts in awarding, suspending, or denying no-fault benefits. *Gilder v. Auto-Owners Ins. Co.*, 659 N.W.2d 804, 806–07 (Minn. App. 2003). An arbitrator's findings of fact are final. *State Farm v. Liberty Mut. Ins. Co.*, 678 N.W.2d 719, 721 (Minn. App. 2004), *review denied* (Minn. June 29, 2004). But an arbitrator's legal determinations are subject to de novo review by the district court. *Gilder*, 659 N.W.2d at 807.

Likewise, in reviewing the district court's decision, “appellate courts are not bound by the [district] court's conclusions, and may independently determine the issues pursuant to applicable statutory and case law.” *MedCenters Health Care, Inc. v. Park Nicollet Med. Ctr.*, 430 N.W.2d 668, 672 (Minn. App. 1988), *review denied* (Minn. Apr. 26, 1989). This court reviews de novo “the arbitrator's legal determinations necessary to granting relief.” *Weaver v. State Farm Ins. Cos.*, 609 N.W.2d 878, 882 (Minn. 2000). Statutory construction is a legal determination which we review de novo. *Brookfield Trade Ctr., Inc. v. Cnty. of Ramsey*, 584 N.W.2d 390, 393 (Minn. 1998); *see Erickson v. Great Am. Ins. Cos.*, 466 N.W.2d 430, 432–34 (Minn. App. 1991) (affirming district court's vacation of arbitration award when award was based on erroneous interpretation of no-fault act).

The workers' compensation act and the no-fault act are to be read harmoniously. *Raymond v. Allied Prop. & Cas. Ins. Co.*, 546 N.W.2d 766, 767 (Minn. App. 1996), *review denied* (Minn. July 10, 1996). When a person is injured while operating a motor

vehicle within the course and scope of their employment, insurance coverage under both a no-fault policy and a workers' compensation policy can be triggered. *Klinefelter v. Crum and Forster Ins. Co.*, 675 N.W.2d 330, 334 (Minn. App. 2004). In such a case, the no-fault act directs workers' compensation benefits to be paid first:

Basic economic loss benefits shall be primary with respect to benefits, except for those paid or payable under a workers' compensation law, which any person receives or is entitled to receive from any other source as a result of injury arising out of the maintenance or use of a motor vehicle.

Minn. Stat. § 65B.61, subd. 1 (2010).

The district court vacated the no-fault arbitration award, finding that the award was collaterally stopped by the earlier workers' compensation decision. Appellant argues that the district court erred by ignoring this court's holding in *Klinefelter* that collateral estoppel does not bar a claimant from seeking and receiving no-fault benefits after being denied workers' compensation benefits. 675 N.W.2d at 337. We agree. In *Klinefelter*, this court held that "[u]nder the no-fault act, workers' compensation insurance is primary. But a denial of workers' compensation benefits does not preclude, through res judicata or collateral estoppel, the arbitration and recovery of no-fault benefits." *Id.* at 332. The court stated that "the workers' compensation and no-fault statutes are two different sets of laws with different purposes and standards and the findings by a workers' compensation court are not binding on a no-fault arbitrator." *Id.* at 337.

Respondent argues that the district court distinguished *Klinefelter* and properly applied collateral estoppel to bar appellant from recovering no-fault benefits. The district court distinguished *Klinefelter* on the ground that the claimant's workers' compensation

and no-fault claims were not identical in *Klinefelter*, whereas in this case the issues presented in both forums are identical, namely because appellant is required to prove the issue of causation for his wage-loss claims in both forums. In doing so, we believe the district court read *Klinefelter* too narrowly.

In order for collateral estoppel to apply, a four-prong test must be met:

(1) the issues in the prior and present adjudication must be identical; (2) there must have been a final adjudication on the merits; (3) the estopped party must have been a party or in privity with a party to the prior adjudication; (4) and the estopped party must have been given a fair and full opportunity to be heard on the adjudicated issue.

Haavisto v. Perpich, 520 N.W.2d 727, 731 (Minn. 1994). The *Klinefelter* court determined that the claimant “did not have a full and fair opportunity to litigate the identical issue in both forums,” and therefore declined to apply collateral estoppel. 675 N.W.2d at 336. The court did not rely on a close analysis of the substance of the claims presented in both forums; rather, the court determined that the claims were not identical because the workers’ compensation and no-fault systems are simply too dissimilar for estoppel to apply. *Id.* The court stated that “[t]he statutory schemes, substantive rules, and procedural limitations of the respective acts are sufficiently dissimilar that only in the broadest and most abstract sense can it be said that the claims in the two forums were identical.” *Id.* The court concluded that “the issues before the workers’ compensation court and the arbitrator, having arisen under different substantive and procedural rules, [are] not sufficiently identical to permit a collateral-estoppel effect.” *Id.* Given that the

claims in this case arise in the same dissimilar systems, we see no occasion to distinguish this case from *Klinefelter* or to depart from its holding.

Respondent argues that collateral estoppel should apply based on the supreme court's decision in *Heine v. Simon*, 702 N.W.2d 752 (Minn. 2005). In *Heine*, the supreme court held that a denial of workers' compensation benefits did not collaterally estop a claimant from litigating issues of lost wages in a tort action against a third party arising from the same accident. *Id.* at 763. The *Heine* court determined that estoppel was not applicable because the first prong, the requirement that the issues in the two adjudications are identical, was not met. *Id.* at 761–63. Respondent argues that although the facts in *Heine* did not pass the test, the first prong is met in this case because appellant had to prove the issue of causation in both forums.

We do not agree that *Heine* supports the proposition that collateral estoppel should bar appellant's no-fault arbitration award in this case. To the contrary, we find support in *Heine* for our conclusion that collateral estoppel was not appropriate. In addition to concluding that the claimant's tort action did not present issues identical to those in his workers' compensation adjudication, the supreme court stated that "we have never used an administrative determination to apply collateral estoppel to a subsequent action that involved outside parties." *Id.* at 761. The court concluded that

given the exclusivity of the Workers' Compensation Act as a remedy against the employer, invocation of collateral estoppel in an employee's third-party action in a case such as *Heine's* where the third party had, and could have had, no involvement in the workers' compensation proceedings does not necessarily serve the purposes of collateral estoppel. Here, these purposes, to conserve judicial resources, protect

parties from multiple lawsuits, and improve court efficiency, are not served by invoking collateral estoppel.

Id. at 762. We find this reasoning equally applicable to appellant's action against respondent, appellant's no-fault insurer, who had no significant involvement in the workers' compensation adjudication between appellant and his employer. Furthermore, *Klinefelter* directly addresses the issue in this case and is still good law. It holds that a denial of workers' compensation benefits does not estop an injured claimant from seeking and receiving no-fault benefits. 675 N.W.2d at 337. Accordingly, the district court erred by vacating the no-fault arbitration award.

Reversed.