

DAVID L. VOIGT, Employee/Appellant, v. KILLIAN TRUCK LINES and AMERICAN STATES INS. CO., Employer-Insurer, and DCA/GREAT WEST LIFE, Intervenor.

WORKERS' COMPENSATION COURT OF APPEALS  
JUNE 14, 1999

No. [REDACTED SSN]

HEADNOTES

CAUSATION - SUBSTANTIAL EVIDENCE. Substantial evidence supports the compensation judge's finding that the employee's left knee condition was not causally related to the employee's 1992 work injury.

Affirmed.

Determined by: Hefte, J., Wilson, J., and Johnson, J.  
Compensation Judge: Harold W. Schultz, II

OPINION

RICHARD C. HEFTE, Judge

The employee appeals the compensation judge's finding that the employee's left knee condition was not causally related to his 1992 work injury. We affirm.

BACKGROUND

On December 7, 1992, David Voigt (employee) sustained multiple severe injuries after being crushed between a truck and a loading dock wall while working as a truck driver for Killian Truck Lines (employer), which was insured for workers' compensation liability by American States Insurance Company (insurer). The employee's injuries included broken facial bones, facial lacerations, broken ribs, multiple punctures of both lungs, lacerated liver, left clavicle fracture, dislocated right shoulder, fractures in his hands, crushed right knee, and multiple lacerations and bruises, including bruises on his left knee. The employee was examined by numerous doctors, including Dr. James Jost, who noted that the employee had "abrasion inferior to left knee." The employer and insurer admitted liability and paid various workers' compensation benefits. The employee did not notice any problems with his left knee until the spring of 1993, when during physical therapy for his other medical conditions, he would notice swelling and a feeling of hyperextension.

At the time of the injury, the employee also ran his own trucking company in addition to working for the employer. The business involved hauling gasoline or oil in tankers.

The employee returned to work on July 1, 1993, in a modified job with his own company. By July 16, 1993, he was working between 30 and 40 hours per week. The employee continued to have left knee symptoms. He noticed the hyperextension sensation while climbing up and down the ladder on the tankers. On July 23, 1993, the employee saw Dr. Joseph Nessler for his left knee symptoms, reporting catching and locking of the left knee since returning to work. Dr. Nessler recommended an MRI. A July 28, 1993, MRI was read as "essentially normal." The employee continued working and had no other treatment for his knee other than strengthening. In March 1994, the employee began treating with Dr. Peter Daly, primarily for his right shoulder injury. The employee reported left knee symptoms. In June 1994, Dr. Daly recommended a brace for the left knee. In November 1994, the employee underwent arthroscopic diagnostic surgery on the left knee along with right shoulder surgery. On January 6, 1995, the employee underwent anterior cruciate ligament (ACL) reconstruction surgery on his left knee.

The employee was off work due to the surgeries, and returned to work in the spring of 1995. The employee experienced left knee problems including swelling as well as other physical problems due to his other injuries. The employee was off work again and returned in 1996 but again experienced difficulty. Dr. Daly recommended reconstruction surgery. The employee was referred to Dr. Eric Green, who performed reconstruction surgery on the left knee on April 14, 1998. The employee was unable to work because of this surgery until late July 1998. Dr. Daly opined that the employee's left knee condition was causally related to his 1992 work injury, but noted that the employee denied pre-existing injuries or conditions related to his left knee. On August 21, 1995, the employee underwent an independent medical examination with Dr. Wayne Thompson, who opined that the employee had not sustained a significant injury to his left knee in the 1992 accident. On January 6, 1998, the employee underwent another independent medical examination with Dr. David Boxall, who concluded that there was no ACL tear of the left knee as a result of the December 7, 1992, injury. The employee also had prior problems with his left knee, including a left knee sprain in September 1976 and bursitis in October 1991.

On October 2, 1997, the employee filed a claim petition for 40% permanent partial disability, subject to the statutory reduction for permanency already paid, which would include the left knee injury. The employer and insurer objected, denying that the employee sustained a left knee injury as a result of his 1992 work injury. The parties settled the claim for permanency except for the left knee. The employee retained his left knee claim and the employer and insurer continued to deny primary liability for the left knee. A hearing was held on September 17, 1998. The compensation judge found that the employee's left knee condition was not causally related to the employee's 1992 work injury. The employee appeals.

## STANDARD OF REVIEW

In reviewing cases on appeal, the Workers' Compensation Court of Appeals must determine whether "the findings of fact and order [are] clearly erroneous and unsupported by substantial evidence in view of the entire record as submitted." Minn. Stat. § 176.421, subd. 1 (1998). Substantial evidence supports the findings if, in the context of the entire record, "they are supported by evidence that a reasonable mind might accept as adequate." Hengemuhle v. Long

Prairie Jaycees, 358 N.W.2d 54, 59, 37 W.C.D. 235, 239 (Minn. 1984). Where evidence conflicts or more than one inference may reasonably be drawn from the evidence, the findings are to be affirmed. Id. at 60, 37 W.C.D. at 240. Similarly, "[f]actfindings are clearly erroneous only if the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been committed." Northern States Power Co. v. Lyon Food Prods., Inc., 304 Minn. 196, 201, 229 N.W.2d 521, 524 (1975). Findings of fact should not be disturbed, even though the reviewing court might disagree with them, "unless they are clearly erroneous in the sense that they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." Id.

## DECISION

The employee argues that the compensation judge's finding that the employee's left knee condition was not causally related to the employee's 1992 work injury is not supported by substantial evidence. "[I]n order to recover workers' compensation benefits, the employee must establish that his work-related injury is a substantial contributing factor to his current disability." Steinhaus v. F.B. Clements, 47 W.C.D. 22, 30 (W.C.C.A. 1992). Questions of medical causation fall within the province of the compensation judge. Felton v. Anton Chevrolet, 513 N.W.2d 457, 50 W.C.D. 181 (Minn. 1994). Where evidence is conflicting or more than one inference may reasonably be drawn from the evidence, the findings of the compensation judge are to be upheld. Redgate v. Sroga's Standard Service, 421 N.W.2d 729, 734, 40 W.C.D. 948, 957 (Minn. 1988). It is the compensation judge's responsibility, as trier of fact, to resolve conflicts in expert testimony. Nord v. City of Cook, 360 N.W.2d 337, 342, 37 W.C.D. 364, 372 (Minn. 1985).

The compensation judge found that the first documented reference of left knee problems was in July 1993. The employee argues that the compensation judge erred by failing to consider other evidence, claiming that the physical therapy records show that the employee experienced problems with his left knee in the spring of 1993. The employee cites records from and after April 19, 1993. The April 19, 1993 record states that the employee was "working on the left, noninvolved side, also and some exercises for the lower leg and knee." The next record, dated April 21, 1993, indicated that the employee would continue his left arm and knee exercises. The records do not indicate what the employee's complaints were regarding the left knee. The compensation judge could reasonably conclude that these records do not reference left knee problems, but that this treatment was incidental to the employee's overall physical therapy. In addition, reference to a left knee condition a few months earlier would not compel the conclusion that the left knee condition was causally related to the December 1992 injury.

The employee also argues that the compensation judge failed to note other evidence regarding causation, such as specific references to the left knee by Dr. Nessler, the employee's treating orthopedist, after the July 23, 1993, examination. Dr. Nessler stated: "He did have quite a bit of bruising during his work-related accident last December on that knee but really did not have a lot of problems initially. He may have sustained a meniscal tear at that time." Other evidence cited by the employee includes the November 1994 surgical report which noted adhesion of the ACL, and Dr. Nessler's records which report that according to the employee, Dr. Daly

indicated that tear was adherent to another ligament which explained why it did not appear on the MRI scan. In addition, Dr. Nessler's diagnosis in March 1998 was: "Recurrent left knee instability, status post work related injury a number of years ago. Prior failed ACL reconstruction." The employee ignores other evidence which contradicts this evidence. Dr. Boxall discounted the theory that the ACL tear would not be visible on the MRI scan:

It is very common that the anterior cruciate ligament is adherent to the posterior cruciate ligament and this in no way impinges one[']s ability to see it on an MRI scan. It simply changes the location of the ligament from its attachment to the femur and makes it adherent to the posterior cruciate ligament which is typical. This in no way would prevent one from making the diagnosis of an anterior cruciate ligament tear nor would it prevent one from seeing the anterior cruciate ligament on an MRI scan.

Furthermore, the compensation judge is not required to specifically mention in a decision every piece of evidence or opinion that is part of the record. See Rothwell v. State, Dep't of Natural Resources, slip op. (W.C.C.A. Dec. 6, 1993); see also Pelto v. USX Corp., slip op. (W.C.C.A. Dec. 16, 1993).

There was conflicting medical evidence regarding causation of the employee's left knee condition. Dr. Daly opined that the employee's left knee condition was causally related to his 1992 work injury, but noted that the employee denied pre-existing injuries or conditions related to his left knee. Dr. Thompson opined that the employee had not sustained a significant injury to his left knee in the 1992 accident after an independent medical examination in 1995. On January 6, 1998, the employee also underwent an independent medical examination with Dr. Boxall, who concluded that there was no ACL tear of the left knee as a result of the employee's 1992 work injury. The employee argues that Dr. Boxall did not review the July 1993 MRI before issuing his opinion. At the time of the January 6, 1998, report, Dr. Boxall did not have the MRI available for review. However, Dr. Boxall reviewed the MRI in August 1998 and stated that the left knee appeared to be normal with the exception of an effusion in the knee joint. In a September 1998 report, Dr. Boxall stated that his opinions regarding causation of the left knee injury remained unchanged. The employee also argues that there is no other explanation for the employee's left knee condition. The employee has the burden of proof to show that his condition was causally related to the work injury. The employer and insurer are not required to prove that there was another cause. It is the compensation judge's responsibility, as trier of fact, to resolve conflicts in expert testimony. Nord v. City of Cook, 360 N.W.2d 337, 342, 37 W.C.D. 364, 372 (Minn. 1985). The compensation judge noted that Dr. Daly was not aware of the employee's previous left knee problems and that the left knee problems did not appear until months after the injury, after the employee had returned to work. Substantial evidence supports the compensation judge's finding regarding causation. Therefore, we affirm.