

BARBARA A. GANLEY, Employee/Appellant, v. HONEYWELL, INC., SELF-INSURED/SEDGWICK CLAIMS MGMT. SERVS., Employer.

WORKERS' COMPENSATION COURT OF APPEALS
OCTOBER 3, 2001

No. [REDACTED SSN]

HEADNOTES

CAUSATION - SUBSTANTIAL CONTRIBUTING CAUSE. Substantial evidence supported the compensation judge's decision that the employee did not prove that work activities substantially caused her right thigh condition, especially given the lack of expert opinion on causation.

Affirmed.

Determined by Wilson, J., Wheeler, C.J., and Rykken, J.
Compensation Judge: William R. Johnson

OPINION

DEBRA A. WILSON, Judge

The employee appeals from the compensation judge's decision denying her claim that she sustained a work-related injury to her right thigh on April 19, 2000. We affirm.

BACKGROUND

The employee is employed as an electronics technician by Honeywell, Inc. [the employer]. This job involves the calibration of laser gyroscope systems and requires the employee to be on her feet for most of her eight- to twelve-hour shift. The record indicates that the employee does a substantial amount of fast walking, in a large facility, to do her job. She works the third shift, typically starting at 6:00 p.m., but is allowed by the employer to work somewhat flexible hours.

The employer's time and attendance records indicate that the employee was out sick on April 18, 2000; the employee does not recall the reason for this absence. The following day, April 19, 2000, the employee left work after about four hours because of severe pain in her right thigh. Douglas Dorpat, a member of the employer's emergency response team, testified that the employee asked him to tell her supervisor that she had to leave work due to her symptoms. Mr. Dorpat further testified that the employee was limping and obviously distraught at the time. According to the employee, the pain started at work and increased during her shift, until she could barely walk, and it "looked like an egg was under my skin and it was all red and hot, and . . . huge."

That same day,¹ the employee was seen for her thigh symptoms by Dr. Angela Dhruvan at Smiley's Clinic. The doctor's notes from this consultation indicate that the employee had been experiencing a "painful inner right thigh for the past three days." Examination revealed that the employee's "inner right thigh [was] erythematous and locally edematous with warmth and palpable cord." Dr. Dhruvan's diagnosis was "superficial thrombophlebitis," and, concerned about the possibility of a deep vein thrombosis, Dr. Dhruvan referred the employee for an immediate venous doppler ultrasound. In his findings, the radiologist wrote, "No superficial venous thrombosis is seen," and he also found no evidence for deep vein thrombosis.

The employee returned to see Dr. Dhruvan on April 21, 2000. At that time, the employee's right thigh appearance was "markedly improved," with no edema, and the employee was advised to continue using elevation and heat for symptomatic relief, to quit smoking, and "to return to clinic for further episodes of phlebitis." The doctor's assessment at the time was "[f]ollowup superficial thrombophlebitis, right thigh improving."

On April 22, 2000, the employee was seen by Dr. F. S. Abuzzahab, a psychiatrist who had apparently been treating her for depression. He did not examine the employee's right thigh, but, apparently based on the employee's complaints, Dr. Abuzzahab later wrote that the employee had sustained a "severe muscular sprain at work" on April 19, 2000, and he referred her to Dr. Paul Dworak, an orthopedist.

In his May 10, 2000, report, Dr. Dworak noted that most of the employee's pain was in her right groin, and he indicated that, "[c]linically, we are dealing with a strain of her hip adductors or iliopsoas, though I cannot completely rule out a stress fracture." He then placed the employee on a course of Vioxx, noting, "[i]f she does not show any signs of improvement in the next week, we will obtain an MRI scan of her pelvis to rule out a stress fracture of the femoral neck or other occult lesion which is causing these unusual symptoms."

The employee was off work due to her right thigh/groin condition until about June 6, 2000. She then returned to her usual job without restrictions or continuing symptoms.

The matter came on for hearing before a compensation judge on March 27, 2001, for consideration of the employee's claim for benefits related to an alleged work injury on April 19, 2000. The self-insured employer denied primary liability. In a decision issued on April 25, 2001, the judge denied the employee's claim, finding that the employee had not proven that she had sustained a work-related injury. The employee appeals.

¹ Or the next day. Because of the employer's shift system and method of recording attendance, it is not entirely clear exactly when the employee developed her thigh symptoms. The employee testified that their "time cards show [a] Wednesday when everyone [else] shows Tuesday."

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 (1992). 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

In his decision, the compensation judge concluded that, given the somewhat confusing nature of the employee's condition, the existence of apparently conflicting diagnoses, and the lack of clear expert opinion on causation, he could not reasonably conclude that the employee had established the occurrence of a work-related injury. On appeal, the employee argues that the case was not complicated, that the judge was misled by Dr. Dhruvan's initial incorrect diagnosis of superficial thrombophlebitis, and that the judge erred in rejecting Dr. Dworak's apparent conclusion that the employee's condition was work-related. After review of the record, we cannot conclude that the judge erred in denying the employee's claim.

Dr. Dhruvan, the initial treating physician, continued to diagnose superficial thrombophlebitis even after completion of the doppler ultrasound. Three weeks later -- during which time the employee was off work -- Dr. Dworak diagnosed a possible strain of the employee's hip adductors or iliopsoas. In the meantime, the red, swollen lump in the employee's inner thigh had disappeared, and most of her pain moved to her groin area. While Dr. Abuzzahab suspected a possible severe sprain due to the employee's work activities, he was the employee's psychiatrist, and he did not examine the alleged injury site. Finally, while Dr. Dworak appeared to suggest that he accepted that the employee's condition qualified as a "work injury," he never rendered an express opinion to that effect. In fact, no physician offered any explanation as to how fast walking could have caused the employee's symptoms, which Dr. Dworak characterized as "unusual," whatever the diagnosis.

The employee contends that a strain injury is the kind of condition for which a compensation judge may make a finding of causation without express supporting medical opinion. See, e.g., Bender v. Dongo Tool Co., 509 N.W.2d 366, 49 W.C.D. 511 (Minn. 1993) ("whether the employment [aggravated a preexisting condition] is a question of fact, not law, and a finding on this point . . . based on any medical testimony or, in the commoner afflictions . . . based on the

[trier of fact's] expert knowledge, even without medical testimony, will not be disturbed on appeal"). However, it is one thing to say that a compensation judge may make such a finding; it is another to say that the judge must do so. In other words, the judge here perhaps could have found work causation for the employee's thigh/groin symptoms, but he was certainly not required to do so, especially given the scant medical evidence. Contrary to the employee's suggestion, the fact that the symptoms may have come on during work hours does not necessarily establish causation, even in the absence of any other apparent cause.

Because the compensation judge did not err in denying the employee's claim of a work-related thigh injury, we affirm his decision in its entirety.