ROYAL HARRIS, Employee/Appellant, v. AUGUSTINE MED., INC., and ST. PAUL FIRE & MARINE INS. CO., Employer-Insurer, and SHELTON CHIROPRACTIC and BLUE CROSS/BLUE SHIELD OF MINN., Intervenors.

WORKERS' COMPENSATION COURT OF APPEALS
AUGUST 6, 2001

No. [REDACTED SSN]

HEADNOTES

CAUSATION - AGGRAVATION. Substantial evidence, including expert opinion, supported the compensation judge's decision that the employee's work-related injury was merely a temporary aggravation of the employee's pre-existing, underlying degenerative disc disease.

Affirmed.

Determined by Wilson, J., Rykken, J., and Pederson, J.
Compensation Judge: Carol A. Eckersen

OPINION

DEBRA A. WILSON, Judge

The employee appeals from the compensation judge's decision that the employee's work-related low back injury was merely temporary. We affirm.

BACKGROUND

The employee was born in 1981 and has worked at various jobs since his early teens. He has a history of low back symptoms and/or treatment dating back to at least January of 1996, when he injured his low back in a slip and fall at his job with Hardees Restaurant. Noting that x-rays showed "some endplate irregularities," his treating physician eventually wrote, "I do not believe this is manifested Scheuermann's disease, but more a multiple Schmorl's node type presentation, perhaps," with a "contusion to his lumbar spine." The employee evidently received treatment for about three months following this injury. Later that same year, in October of 1996, the employee sought additional medical care for low back pain after he hit his back against a "wood frame." About a year and a half after that, in March of 1998, the employee injured his back again when he fell while participating in track at school. Medical records indicate that the employee took Motrin and Relafen to treat his symptoms after that incident.

In July of 1998, the employee began part-time light maintenance work for Augustine Medical, Inc. [the employer]. His job duties included painting, some sheetrock work, and assorted handyman-type tasks. Several months later, on November 9, 1998, the employee injured his low back again, at home, when he slid off a garage roof while stringing Christmas

lights, falling about eight feet and landing on his feet. The employee testified that he experienced pain in his low back, but not his buttocks or legs, and that the pain resolved after several days of treatment with anti-inflammatories.

On about December 16, 1998, the employee felt a sharp pain in his low back while moving a table for a party at work. He testified that he stopped moving tables but stayed for the party. As part of the festivities, workers were invited to throw "snowball" snack cakes at their supervisors, and, while participating in this activity, the employee experienced another sharp pain in his low back, into his leg. His supervisor advised him to seek treatment, and the employee was seen at urgent care at Columbia Park Medical Center that same day.[1] Notes from that evaluation indicate that the employee reported having fallen off a garage on November 9, 1998, with "poss. reinjury today." The treating physician diagnosed acute back strain and thoraco-lumbar disc contusion. A medical record from six days later, December 22, 1998, again reflects that the employee reported his fall from the garage roof and that he was "now having a lot of pain." An MRI performed on December 28, 1998, was read to reveal broad-based central bulging discs at L3-4, L4-5, and L5-S1.

During the months following his December 16, 1998, injury, the employee was seen by several physicians, including Drs. David Sahlstrom, David Kraker, Robert Jacoby, and Thomas Reiser. Treatment included medication, including narcotics, physical therapy, pool therapy, and epidural injections. Medical records indicate that the employee slipped on ice in early February of 1999, again aggravating his symptoms. Not long after, he underwent additional diagnostic testing, including another MRI scan, lumbar epidurography, and a discogram, and, following the discogram, from February 19, 1999, to February 24, 1999, he was hospitalized for purposes of pain control. The employee returned to light-duty data entry work for the employer in late April of 1999, but quit that work three months later to take a full-time job with another employer. In the meantime, in June of 1999, he graduated from high school through home schooling, having been unable to attend his usual classes due to low back pain. In September of 1999, the employee was hospitalized briefly for an apparent suicide attempt, which he relates in part to depression caused by his work injury. Medical records reflect at least one additional aggravation of his low back symptoms, apparently caused by lifting a bundle of shingles while helping to roof his mother's house in October of 1999. He received chiropractic care from Dr. Scott Shelton following that incident. The employee is not presently considered a surgical candidate.

The matter came on for hearing before a compensation judge on August 25, 2000, for resolution of the employee's claim for various benefits allegedly due as a result of his December 16, 1998, work injury. While there were numerous issues in dispute, the case hinged primarily on causation for the employee's ongoing low back complaints and need for restrictions. In support of his position, the employee submitted opinions from several treating physicians, who indicated that the employee's work injury was permanent. The employer and its insurer, on the

[1] The parties agree that the employee's work injury occurred on December 16, 1998. However, the urgent care physician's notes are dated December 15, 1998. There is no explanation in the record for this discrepancy.

other hand, contended that the employee's work injury was merely a temporary aggravation of his underlying juvenile degenerative disc disease, lasting no more than three months after the date of injury. Their position to that effect was supported by the opinion of Dr. Thomas Hartman, their independent examiner.

In a decision issued on November 7, 2000, the compensation judge resolved the primary issue in favor of the employer and insurer, finding that the employee's December 16, 1998, work was a temporary aggravation lasting three months, until March 16, 1999. Accordingly, the judge denied the employee's claim for benefits.[2] 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 (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

The compensation judge expressly relied on the opinion of Dr. Hartman in concluding that the employee's December 16, 1998, work injury constituted a temporary aggravation of the employee's pre-existing condition, lasting three months. In explaining her decision on this issue, the judge wrote in her memorandum as follows:

> Dr. Sahlstrom's office note after the December 16, 1998 injury does not note a work injury. Dr. Kraker's history noted only that the

[2] The compensation judge also denied payment for some medical care rendered during the period of the temporary aggravation, such as the discogram, apparently relying on the opinion of Dr. Hartman that certain treatment was not reasonable and necessary due to the employee's work injury. As the employee did not address medical expenses in his brief, except in the context of whether his injury was temporary, we will not review his medical claims separately. The same disposition applies to the employee's claim that he suffered a consequential depression as a result of his work injury. The only issue specifically addressed in the employee's brief was whether his work-related low back injury was temporary or permanent.

> employee had lifted tables but did not include the employee's description of increased symptoms with throwing the snowball. Dr. Sager has the same history. Dr. Reiser had a complete description of the events on December 16, 1998. However, Dr. Reiser did not account for the employee's prior history of low back symptoms, specifically his low back pain after jumping down from the garage roof. Dr. Hartman had a complete factual history and all the prior medical records. He had the most complete foundation for his opinions. He noted that the medical records document a history of juvenile degenerative disc disease and low back pain before the work injury. He felt the mechanism of injury on December 16, 1998 was not as substantial as the fall from the garage roof. I found Dr. Hartman's opinions persuasive, as these were most consistent with the contemporaneous medical records of the employee's prior low back treatment and the treatment for the December 16, 1998 injury. Dr. Hartman found that Mr. Harris sustained a temporary aggravation of his preexisting degenerative disc disease that lasted three months.

On appeal, the employee argues that the compensation judge erroneously ignored the employee's testimony about the nature of his symptoms pre- and post-injury, specifically, that he had never experienced radicular symptoms until his work injury of December 16, 1998, and that he had been pain free only a few days after his November 1998 fall from the garage roof. The employee also contends that the judge erred by failing to address all of the relevant medical evidence. We are not persuaded by any of these arguments.

We note initially that a compensation judge is not required to discuss every piece of relevant evidence. See Smith v. The Press, Inc., slip op. (W.C.C.A. Apr. 27, 1995); Rothwell v. Minnesota Dep't of Natural Resources, slip op. (W.C.C.A. Dec. 6, 1993). And, while it may be true that there is no evidence that the employee experienced leg pain prior to December 16, 1998, there is also no evidence that physicians considered the employee's leg pain significant to the issue of causation or even that the employee's leg pain is considered truly radicular. Furthermore, we would note that the opinion of Dr. Reiser, upon whom the employee relies, was apparently premised on the belief that the employee's pre-existing degenerative condition was "asymptomatic, until [the employee's] work injury of December 16, 1998," a belief not supported by the record. In any event, we are not convinced that the judge "ignored" any relevant evidence in reaching her decision on causation.

Certainly the record contains adequate evidence to support the employee's claim. However, that the record would have supported some other result is not the issue on appeal; rather, the question is whether the judge's decision is supported by evidence that a reasonable mind might accept as adequate. Hengemuhle, 358 N.W.2d 54, 37 W.C.D. 235. In the end, this is a rather straight-forward case involving a judge's choice between conflicting expert opinions. The compensation judge found the opinion of Dr. Hartman more persuasive than the opinions of the employee's treating doctors because Dr. Hartman had more information about the employee's

work injury and treatment history. The judge was well within her discretion in this regard. See Nord v. City of Cook, 360 N.W.2d 337, 37 W.C.D. 364 (Minn. 1985). Because substantial evidence, including the opinion of Dr. Hartman, supports the judge's decision that the employee's work injury was merely temporary, we affirm her decision in its entirety.