ORVILLE RUPPERT, Employee/Appellant, vs. SANDOZ/NORTHRUP KING and LIBERTY MUT. INS. CO., Employer-Insurer and SPECIAL COMP. FUND.

WORKERS' COMPENSATION COURT OF APPEALS
MARCH 8, 2001

No. [REDACTED SSN]

HEADNOTES

CAUSATION. The employee's injury continues to substantially contribute to his inability to work full-time; the compensation judge's findings that the employee's work-related injury was not a substantial contributing cause of the employee's disability and that the employee's non-work-related conditions were an independent intervening cause of his disability are not adequately supported by evidence in the record and are clearly erroneous.

JOB SEARCH. Where the employee cooperated with his QRC and placement vendor in an extensive job search, the record does not support a conclusion that the employee did not conduct a diligent job search .

WITHDRAWAL FROM LABOR MARKET. The employee rebutted the statutory presumption in Minn. Stat. § 176.101, subd. 8, based on factual evidence, including his intent concerning retirement, the type of work the employee was performing, the absence of a pension plan or other retirement arrangements, and the employee's work history.

PERMANENT TOTAL DISABILITY. The employee's work-related injury remains a substantial contributing case to his inability "to secure anything more than sporadic employment resulting in an insubstantial income." Minn. Stat. § 176.101, subd. 6.

Reversed.

Determined by: Rykken, J., Wheeler, C.J., and Wilson, J.
Compensation Judge: James R. Otto

OPINION

MIRIAM P. RYKKEN, Judge

The employee appeals the compensation judge's findings that the employee's loss of vision in his right eye due to a work-related injury was not a substantial contributing factor to the employee's ongoing disability since November 30, 1998, that the employee had retired and withdrawn from the labor market as of August 17, 1999, that the employee had failed to make a diligent job search and his conclusion that the employee was not entitled to temporary partial disability benefits or permanent total disability benefits from and after November 30, 1998. The employee also appeals from the compensation judge's award of a credit to the employer and insurer

for overpayment of temporary partial disability benefits from and after November 30, 1998 to date. We reverse.

BACKGROUND

On November 14, 1986, Orville Ruppert, the employee, sustained a work-related injury to his right eye while working as a district manager for Sandoz/Northrup King, the employer, which was insured for workers' compensation liability by Liberty Mutual Insurance Company, the insurer. As district manager, he covered a 23-county area, supervising farmer salesmen in the sale of corn and soybean seed. Born in 1929, the employee was 57 years old at the time of his injury and earned $442.30 per week. As a result of his work injury, the employee lost all usable vision in his right eye except for peripheral vision limited to sensing motion. The employer and insurer accepted liability for the employee's injury, and paid various workers' compensation benefits, including temporary total disability benefits, temporary partial disability benefits, permanency benefits based on 23% permanent partial disability of the body as a whole, medical expenses, and rehabilitation services. The employee was unable to return to work with the employer and by August 1987 was provided rehabilitation services, including job search assistance from a job placement vendor.

The employee's employment background includes approximately seven years work with Northrup King in addition to positions as senior sales representative for Menard's Building, owner/operator of a Coast to Coast hardware store, owner/operator of a grain and livestock operation, and real estate sales agent.

On April 22, 1989, the employee began working part-time at the Mill's Fleet Farm store in Alexandria, Minnesota; when hired at Fleet Farm, the employee was 60 years old. Attainment of part-time employment was consistent with the rehabilitation plan approved by the employer and insurer, and they paid ongoing temporary partial disability benefits based on the employee's part-time wages. The employee continued to work part-time at Fleet Farm until November 1997, when he and other employees were laid off. Thereafter, the employee worked part-time through Manpower, a temporary staffing agency, from December 1997 through mid-February 1999. He also performed temporary work for the U.S. Census Bureau. (Ee. Ex. D.) The employee worked for several different companies through Manpower, but primarily worked at Juno Tool, an injection molding plastics fabricating company. The employer and insurer continued to pay temporary partial disability benefits to the employee.

According to the employee's hearing testimony, he had difficulty performing the work at Juno, due to his lack of depth perception, his uniocular vision and lack of dexterity, and he burned and cut himself often on the fabricating machinery. He testified that "I learned to do it more by feel than by sight a lot of times...I just was doing something I didn't feel comfortable with, but I did it because I needed the money." (T. 40-41.) The employee also had some difficulty working at Juno due to non-work-related limitations, such as his back condition which made it difficult for him to stand for long periods of time. (T. 39-41.) The employee also testified that he provided Manpower with a list of his physical restrictions, and that he accepted all offers of employment that Manpower gave him from December of 1997 to mid-February 1999. (T. 66, 76.) According to the employee's records, his weekly hours varied between 6 and 21 3/4 during this

period; his hours at Juno ranged between 5 3/4 and 16 per week. (Ee's Ex. D.) The employee also testified that he did not request more hours than he was scheduled by Manpower. (T. 65.)

In addition to his right eye injury, the employee has been diagnosed with multiple medical conditions, and has received treatment for some, including chronic obstructive pulmonary disease, obesity, glucose intolerance, hyperlipidemia, hyperthyroidism, sleep apnea, low back pain which radiates into his buttocks, asthma, arthritis of the ankles, feet and hands, pernicious anemia, and impaired hearing.

On April 8, 1999, the employee filed a claim petition for permanent total disability benefits from and after November 30, 1998. Rehabilitation benefits were recommenced in October 1999, provided by Ken Moberg Career and Vocational Services, Inc. Placement services were also provided by David Law, job placement vendor. At the time these rehabilitation services commenced, the employee worked part-time, six to nine hours per week as a church cemetery custodian, earning $6.00 per hour. During his initial rehabilitation consultation with Tom Lanes, qualified rehabilitation consultant (QRC), conducted on October 6, 1999, the employee described the limitations associated with his eye injury, as well as with his chronic obstructive, pulmonary disease, his arthritis and sleep apnea. (Ee. Ex. A.) Initially, the employee underwent an eye examination and a functional capacities evaluation at the recommendation of his QRC, to assess the employee's physical work restrictions. Dr. Haynie performed an eye examination on November 1, 1999, determining that the employee was effectively uniocular, that the employee could not obtain any useful vision in the right eye, and recommending that the employee not drive or operate any dangerous or high-speed machinery. The occupational therapist who conducted the functional capacities evaluation (FCE) on January 5 and 6, 2000, identified the following conditions and restrictions: deconditioning, reduced depth perception, reduced weight handling ability, inability to ladder climb, inability to squat, crouch, or lift to or from floor level, limited trunk rotation, low trunk endurance and weakness for bending, low trunk endurance and strength, and decreased shoulder endurance for reaching. The occupational therapist recommended physical work restrictions, including standing at 5 minute intervals up to 20 minutes per day and walking up to 2 hours per day. She also determined that the employee could work four to five hours per day at a light work level, considering his need for pacing, and also recommended frequent breaks as needed. A work hardening program was recommended by the therapist; according to the therapist, a "work conditioning program would address his musculoskeletal deficits and his cardiovascular endurance deficits perhaps increasing his work tolerance to 6 to 8 hours per day." (Er. 2.) This recommendation apparently was not approved by the employer and insurer, apparently due to lack of follow-up by the employee's treating physician at the VA Medical Center in St. Cloud.[1]

[1] In his brief on appeal, the employee argues that "due to a lack of cooperation by the employee's treating physician from the Veterans' Hospital, no release or authorization from his physician was obtained to proceed with work hardening." (Ee's brief, p. 6.) The QRC testified that although he wrote twice to the physician, and telephoned him once to obtain his opinion on the appropriateness of work conditioning, the physician did not provide any opinion or information as requested. (T. 83-84.)

The employee began a job search with assistance from his QRC and placement vendor. From January 25, 2000 through April 25, 2000, when rehabilitation assistance was discontinued, the placement vendor made 1,923 employer contacts in the relevant labor markets of Alexandria, Glenwood, and Osakis, Minnesota. Thirty-one potential job leads were identified, of which 13 had openings. The employee made approximately 225-250 employer contacts, 52 of which were in-person contacts and which resulted in 11 applications and three interviews. The employee interviewed with Alexandria Florist, Wal-Mart and McDonald's restaurant. The employee was offered a position at Alexandria Florist, but did not accept that offer as his QRC determined that the position was beyond the employee's physical restrictions, since it required walking and standing for four hours, with one 15-minute break. The employee received no job offers from Wal-Mart and McDonald's.

On March 31, 2000, the employer and insurer filed a petition to discontinue temporary partial disability benefits and a petition for credit of overpayment pursuant to Minn. Stat. § 176.179 (1984). A hearing was held on June 2, 2000, to address the employee's claim petition and the employer and insurer's petitions. At the time of the hearing, the employee continued to work part-time as a cemetery custodian. The compensation judge found that the employee's loss of vision in his right eye due to the work-related injury was not a substantial contributing factor to the employee's ongoing disability; that the employee had retired from the competitive labor market on or about August 17, 1999, and had withdrawn from the labor market; and that the employee had failed to make a diligent job search. The compensation judge concluded that the employee was not entitled to temporary partial disability benefits or permanent total disability benefits from and after November 30, 1998, and awarded a credit to the employer and insurer for overpayment of temporary partial disability benefits paid since November 30, 1998.

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

Causation

The employee argues that the compensation judge erred by concluding that the employee's loss of vision in his right eye due to his work-related injury is not a substantial contributing factor to the employee's ongoing disability and that the employee's nonwork-related medical conditions constitute a superseding intervening event which releases the employer and insurer from any obligation to pay ongoing benefits. The employee argues that although his nonwork-related and age-related limitations had an impact on his general employability, those limitations certainly did not rise to the level of a superseding intervening event.

An employer is liable for all natural consequences flowing from an admitted personal injury unless such consequences are the result of an independent intervening cause. Rohr v. Knutson Constr. Co., 305 Minn. 26, 232 N.W.2d 233, 28 W.C.D. 23 (1975). A personal injury need not be the sole cause of disability. It is only necessary for the employee to show that the personal injury was a legal cause of the disability, that is, a substantial contributing cause. A superseding intervening cause is one which severs the causal link between the original personal injury and the resultant disability such that the original personal injury is no longer a substantial and contributing cause of the resultant disability. Roman v. Minneapolis Street Ry., 268 Minn. 367, 129 N.W.2d 550, 23 W.C.D. 573 (1964).[2]

Two claims are at issue here: a claim by the employee for permanent total disability benefits from November 30, 1998, and a claim by the employer and insurer for discontinuance of temporary partial disability benefits. The compensation judge determined that no temporary partial disability benefits were owed after November 30, 1998, and therefore awarded a credit to the employer and insurer for all temporary partial disability benefits paid since that date.

In order to establish entitlement to temporary partial disability, an employee must prove a physical disability; ability to work subject to the disability; and an actual loss of earning capacity causally related to the disability. Dorn v. A.J. Chromy Constr. Co., 310 Minn. 42, 245 N.W.2d 451, 29 W.C.D. 86 (1976). The employee argues that his work-related eye injury continued to be a substantial cause of his ongoing disability. The employer and insurer argue that the employee's inability to work since November 30, 1998 is not related to his 1986 work-related injury but instead is the result of conditions entirely unrelated to his work injury. In his findings and order, the judge identified the employee's multiple diagnosed medical conditions, described above, which are unrelated to his right eye condition. (Finding No. 9.) The judge cited to Marroquin v. Septran, No. [REDACTED SSN] (W.C.C.A. Aug. 11, 1997), and concluded that

> An employer and its workers' compensation insurer are not obligated, under the terms and provisions of the Minnesota Workers' Compensation Law, to pay temporary partial disability

[2] See also Buford v. Ford Motor Company, 52 W.C.D. 723 (W.C.C.A. 1995), *summarily aff'd* (Minn. June 30, 1995) (the proper test to determine whether a subsequent incident is a superseding, intervening cause is the "substantial contributing cause" test, not the "but for" test.).

> benefits and/or total disability benefits to any employee who is totally disabled from competitive employment due to subsequent intervening non-work related conditions...when the work-related injury has not been shown to have been a significant contributing cause of an employee's inability to work.

(Finding No. 11.) Although Marroquin addressed entitlement only to temporary partial or temporary total disability benefits, the same principle applies as well to the employee's claim for permanent total disability benefits, that is, no wage loss benefits are payable when the work-related injury does not represent a significant contributing cause of an employee's inability to work. In Marroquin, the employee sustained an admitted personal injury, was unable to return to her pre-injury job as a school bus driver, and began a part-time job working as a grocery store cashier. She was paid temporary partial disability benefits. She later underwent knee surgery for a condition which was not causally related to her work injury. The Court held that there was no basis for requiring that former employer to continue to pay temporary partial disability benefits based on a wage that the employee no longer earned, as the employee's inability to work was not related in any way to her work injury but instead was resulted from an injury completely unrelated to her work.

Mr. Ruppert's case presents a closer situation, due to the restrictions caused by his right eye injury and due to the jobs from which he is precluded as a result of his limited vision. After his work-related eye injury, the employee was able to work part-time at Fleet Farm for over eight years until he was laid off. Other medical conditions affected his ability to work, including low back and lower extremity pain. The employee testified that by the time he was laid off from Fleet Farm, he recalled feeling "glad the day [was] over because my back and ankles hurt so darn much..." (T. 63.) In his memorandum, the compensation judge emphasized that the employee's restrictions on standing and walking were the proximate contributing cause of his inability to work. However, the employee has continued to work part-time following his 1986 work injury in spite of his other non-work-related medical conditions, and obtained other part-time employment after his layoff from Mills Fleet Farm. The employer and insurer continued to pay temporary partial disability benefits based on that subsequent part-time employment. He sustained 23% permanent partial disability to the body as a whole as a result of his right eye injury. At hearing, the QRC and placement vendor both testified that the employee's right eye injury and related vision impairment would restrict the employee from a substantial number of jobs. The QRC identified which limitations were associated with the employee's vision impairment, including depth perception, inability to drive, inability to walk and carry with loads, inability to move around moving or dangerous equipment, inability to walk on uneven surfaces, balance or climb, and inability to work in dim light or around a lot of movement. (T.86.) The placement vendor testified that the employee's vision limitations impacted most significantly on those sedentary positions that otherwise could have been performed by the employee. (T. 113-114.) The placement vendor testified that the employee is "restricted from positions which would involve those activities, which would be a fairly substantial number of jobs." (T. 87.) No evidence or testimony to the contrary was presented.

The record compels the conclusion that after November 30, 1998, the employee's right eye injury continues to substantially contribute to his inability to work full-time, and we

therefore reverse the compensation judge's finding that the employee has not shown by a preponderance of the evidence that he has been unable to work either part-time or full-time as a substantial result of his right eye injury. (Finding No. 3.) The compensation judge's findings that the employee's November 1986 work injury was not a substantial contributing cause of the employee's disability and that the employee's nonwork-related conditions were an independent intervening cause of his disability are not adequately supported by evidence in the record and are clearly erroneous. Accordingly, we reverse those findings.

Since we have reversed the compensation judge's finding that the employee's ongoing disability is causally related to his work injury, we also address the job search and retirement issues.

Job Search

The compensation judge found that the employee failed to conduct a reasonable and diligent job search. He found that:

> Mr. Rupert has (subsequent to August 1999) failed to make a reasonable and diligent effort to find full time and part time work that he can physically do with employers that were hiring, and specifically failed to make a reasonable and diligent effort to obtain employment at Alexandria Florist (where he was offered a job), at the Wal-Mart Store in Alexandria where a greeter position was available, and at McDonald's, all of whom had job openings. (Finding No. 7.)
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> The reason that Mr. Ruppert did not accept the job offer made to him by the Alexandria Florist or pursue the job of "greeter" at the Wal-Mart Store in Alexandria, or the jobs available at McDonald's was for physical problems unrelated to his right eye injury of November 14, 1986. (Finding No. 8.)
>
> Mr. Orville Ruppert failed to make a reasonable or diligent effort to find competitive full-time employment that he could physically do from and after August 17, 1999 (He failed to request re-employment at Mill's Fleet Farm; he failed to apply for work at the Ace Hardware Store in Alexandria, and he failed to follow through in obtaining employment as a "greeter"at the Wall-Mart Store in Alexandria. (Finding No. 12.)

"A diligent job search . . . is a search that is reasonable under all the facts and circumstances." Redgate v. Sroga's Standard Serv., 421 N.W.2d 729, 40 W.C.D. 948 (Minn. 1988). The QRC and placement vendor testified, and this testimony was unrefuted, that the employee conducted a diligent job search. The employer and insurer recommenced rehabilitation services for the employee in October 1999. At that point, the employee was working part-time, six to nine hours per week, earning $6.00 per hour, as a cemetery custodian. Rehabilitation

services initially were directed toward identifying the employee's physical limitations, through a functional capacities evaluation and eye examination. Based upon identified limitations, a job search was commenced under the direction of the employee's QRC and with a placement vendor. According to the job placement plan and agreement, formal placement efforts were conducted between January 25 and April 25, 2000. The placement vendor testified that he had thoroughly exhausted the Alexandria labor market in attempting to locate employment for the employee. Following three interviews, the employee was offered a position with Alexandria Florist, which the QRC determined to be beyond the employee's physical restrictions. Other interviews with McDonald's and Wal-Mart did not result in any offer of employment.

The QRC and placement vendor both testified that the employee cooperated with the rehabilitation and job search process.[3] Both the QRC and placement vendor concluded that in spite of the employee's diligent job search, no jobs were available within the employee's physical work restrictions, and concluded that the employee was presently unemployable. Both the QRC and placement vendor testified that the employee's vision problems represented a significant impediment to his return to work, especially since his impaired vision precluded him from returning to sedentary positions for which he would otherwise be qualified. This testimony was unrefuted by other evidence or testimony.

In his findings and order, the compensation judge referred to the employee's failure to make a reasonable and diligent effort to obtain employment with Alexandria Florist, Wal-Mart and McDonald's, all of which had job openings. The compensation judge concluded that the reason the employee did not pursue the jobs at Wal-Mart or McDonald's was "for physical problems unrelated to his right eye injury of November 14, 1986." (Finding No. 8.) As testified to by the employee's QRC, the florist position was beyond the employee's physical work restrictions, and no offers were presented to the employee following his interviews with Wal-Mart and McDonald's. Nothing in the record supports the conclusion that the employee did not pursue the jobs at Wal-Mart or McDonald's solely due to non-work-related conditions.

The compensation judge also concluded that the employee failed to request re-employment at Mill's Fleet Farm, where he had worked until his layoff in 1997. However, the placement vendor testified that the position with Mill's Fleet Farm was prescreened and was not presented to the employee by the placement vendor as a viable job lead. This does not demonstrate the employee's "failure" to follow up with Mill's Fleet Farm. The compensation judge also determined that the employee failed to apply for work at Ace Hardware Store in Alexandria. At hearing, the compensation judge asked the placement vendor whether the employee had contacted Ace Hardware, in view of his work as a Coast to Coast owner/operator for nine years. The placement vendor testified that he telephoned Ace Hardware on behalf of the employee. (T. 121-122.) According to the rehabilitation records, the placement vendor spoke with the manager at Ace Hardware on March 17, 2000, who informed him that there was a position open for 20 to 24 hours per week, paying $6.00 per hour, but that Ace was "not interested in hiring a person who cannot work a 9 hour shift, and that the employee's lifting limitations would be a problem for

[3] The employee's QRC was asked about the level of activity of the employee's three-month formal job search efforts, and testified that "In that amount of time span, this would be the most extensive job search I've been involved with." (T. 95.)

him." (Ee. Ex. A.) Therefore, the record does not support a conclusion that the employee's purported failure to follow-through with these particular employers demonstrates a failure to make a reasonable or diligent effort to find competitive full-time employment.

The employee's testimony also supports the conclusion that he has continued to conduct a job search. The employee continues to work on a limited, part-time basis. He remains on the hiring list for Manpower Temporary Services, and testified that he checked in with them on a weekly basis. Based upon the unrefuted testimony presented by the QRC and placement vendor and based upon the testimony of the employee, we find that the record does not support a conclusion that the employee did not conduct a diligent job search, and accordingly we reverse.

Retirement from Labor Market

The compensation judge determined that the employee has retired from the competitive labor market. He found as follows:

> Mr. Ruppert retired from the **competitive labor market** on or about August 17, 1999 when he left his job at Plastic Molding Comp for reasons unrelated to his right eye injury of November 14, 1986 (Mr. Ruppert's testimony suggested that his right eye blindness was a factor has not been received as credible).

(Finding No. 4.) (Emphasis added in the original.)[4]

> Effective January 1, 1984, Minn. Stat. § 176.101, subd. 8, stated that
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> For injuries occurring after the effective date of this subdivision an employee who receives Social Security, old age and survivor's insurance retirement benefits is presumed retired from the labor market. This presumption is rebuttable by a preponderance of the evidence.

The Minnesota Supreme Court has determined that certain factors are pertinent in determining the applicability of the retirement presumption, such as the intent of the employee concerning retirement, the type of work the employee was performing, the presence or absence of a pension plan or other retirement arrangements and their adequacy, the employer's age and work history, and the willingness to forego Social Security benefits based on an offset. Grunst v. Emmanuel St. Joseph's Hosp., 40 W.C.D. 422, 424 N.W.2d 66 (1988). Consistent with the factors outlined in Grunst, the compensation judge determined that the employee rebutted this statutory presumption; the compensation judge acknowledged the employee's need for supplemental

[4]This finding is erroneous. The employee did not work at Plastic Molding Corp. He did, however, work at Juno Tool & Plastics, through Manpower; Juno is a company which operates plastic injection molding machines, so presumably the compensation judge was referring to that position. However, the employee last worked for Juno in February 1999, so it is unclear what forms the basis for the conclusion that the employee retired on August 17, 1999.

income in his memorandum when he stated that "Mr. Ruppert appears from the evidence to be an individual who needs income to supplement his Social Security retirement income. He has accordingly overcome any presumption of retirement when he applied for and received Social Security Retirement Benefits on or about August 1991." (Memo. At 5.)

However, in a finding which is contradictory to his statement cited above, the compensation judge determined that the employee retired as of August 17, 1999. In this case, the evidence does not support a conclusion that the employee has retired from the competitive labor market. Following the employee's injury on November 14, 1986, the employee received rehabilitation assistance and commenced working part-time for Fleet Farm in 1989. Indeed, the rehabilitation plan was directed toward locating part-time employment for the employee. Since returning to work in a part-time basis in 1989, the employee has continued to work on a part-time basis, in order to supplement his Social Security Retirement income. The employee testified that his income is limited to his Social Security payment, and that he has no other income, such as veteran's benefits, retirement or pension plan. He also testified that his expenses exceed his current income. The employee's testimony concerning his financial status was unrefuted; based on evidence in the record, the employee did not have the financial ability to retire. The evidence does not support a conclusion that the employee retired from the competitive labor market. We therefore reverse the compensation judge's determination that the employee has retired from the competitive labor market, as it is clearly erroneous and is not supported by substantial evidence of record.

Permanent Total Disability

"[A] person is totally disabled if his physical condition, in combination with his age, training, and experience, and the type of work available in his community, causes him to be unable to secure anything more than sporadic employment resulting in an insubstantial income." Schulte v. C.H. Peterson Constr. Co., 278 Minn. 79, 83, 153 N.W.2d 130, 133-34, 24 W.C.D. 290, 295 (1967). In evaluating permanent total disability, the primary consideration is the employee's vocational potential, rather than his physical condition. McClish v. Pan-O-Gold Baking Co., 336 N.W.2d 538, 542, 36 W.C.D. 133, 139 (Minn. 1983); Boileau v. A-Plus Indus., 58 W.C.D. 549, 558-59 (W.C.C.A.1998). In this case, the employee is currently 71 years old, and other than minimal work as a cemetery custodian, the employee had been unable to obtain employment, despite an extended job search with the assistance of a qualified rehabilitation consultant (QRC) and a placement vendor. Under the circumstances of this case, the employee's work-related injury is a substantial contributing cause of his inability to obtain sustained, gainful employment.

We are mindful of this court's standard of review and that findings of the compensation judge are to be affirmed "if, in the context of the record as a whole, they are supported by evidence that a reasonable mind might accept as adequate." Hengemuhle, 358 N.W.2d at 59, 37 W.C.D. at 239 (Minn. 1984). However, on review of the entire record, including the testimony of the QRC, placement vendor and employee, and the rehabilitation and medical records, we conclude that the employee's work-related right eye injury remains a substantial contributing cause to his inability "to secure anything more than sporadic employment resulting in an insubstantial income." Minn. Stat. § 176.101, subd. 6. We therefore reverse the compensation judge's denial of the employee's claim for permanent total disability benefits, and

order that permanent total disability benefits be paid after August 30, 1998, with credit to the employer and insurer for temporary partial disability benefits paid since then.