

SUPREME COURT OF NORTH DAKOTA

Clark v. North Dakota Workforce Safety & Insurance Fund

757 N.W.2d 39 (N.D. 2008) · No. No. 20080089 · Decided October 24, 2008

SUMMARY

The Supreme Court of North Dakota affirmed a district court judgment upholding a Workforce Safety and Insurance award to Rory Clark on a 50 percent aggravation basis. The court held that the evidence supported the finding that Clark's October 12, 2005 workplace injury substantially worsened a preexisting lower-back condition and that he was therefore entitled to benefits under N.D.C.C. § 65-05-15.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Vande Walle, Chief Justice; William W. McLees, D.J.; Mary Muehlen Maring; Dale V. Sandstrom; Carol Ronning Kapsner
JURISDICTION	North Dakota
DECIDED	October 24, 2008
DOCKET	No. 20080089
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rory Clark appealed from a district court judgment affirming a Workforce Safety and Insurance order awarding him workers compensation benefits on a 50 percent aggravation basis.
STANDARD OF REVIEW	The Supreme Court reviews the decision of the agency rather than the district court. It affirms unless the agency's findings of fact are not supported by a preponderance of the evidence, its conclusions of law are unsupported by the findings, its decision is unsupported by the conclusions of law, or its decision is not in accordance with law. The Court does not substitute its judgment for that of the agency and determines whether a reasoning mind could have reached the agency's factual conclusions from the record.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Rory Clark v. North Dakota Workforce Safety & Insurance Fund

TOPICS

workers compensation

administrative law

judicial review of agency action

standard of review

appellate procedure

PRACTICE AREAS

workers compensation

administrative law

employment law

QUESTIONS PRESENTED

1. Whether WSI properly awarded benefits on a 50 percent aggravation basis under N.D.C.C. § 65-05-15 rather than awarding full benefits after the acute-care period.
2. Whether the agency's finding that Clark's October 12, 2005 work injury substantially worsened a preexisting back condition was supported by the evidence.

HOLDINGS

1. When a compensable work injury substantially accelerates or worsens a known preexisting condition that previously interfered with physical function, benefits after the acute-care period are payable on an aggravation basis, subject to the statutory 50 percent presumption unless rebutted by clear and convincing evidence.
2. The agency's finding that Clark's work injury was related to and aggravated his longstanding back condition was supported by the evidence, and the Court would not reweigh conflicting medical opinions.

KEY QUOTATIONS

“When WSI matters are appealed to this Court, we review the decision of the agency, and not the decision of the district court.” (at 42)

“A reasoning mind could agree with WSI's conclusion that Rory Clark's compensable injury was related to his long history of back ailments.” (at 44)

FACTUAL BACKGROUND

Clark had a lengthy history of recurring lower-back pain, numbness, and treatment before October 2005, including injuries and episodes associated with heavy work and other activities. On October 12, 2005, he twisted his back while working as a driller, after which his pain and leg numbness increased. Subsequent lifting and coughing episodes worsened his symptoms, and an MRI revealed a herniated disc and lumbar degeneration; he underwent surgery in March 2006. Medical opinions conflicted about whether the work injury caused a new condition or substantially aggravated Clark's preexisting back problems.

PROCEDURAL HISTORY

WSI initially denied Clark's claim after determining that his October 12, 2005 work injury merely triggered a preexisting condition. After a formal hearing, the administrative law judge found a compensable work injury but concluded that Clark had not established by clear and convincing evidence that the aggravation exceeded 50

percent. WSI adopted the ALJ's findings and awarded benefits on a 50 percent aggravation basis. The district court affirmed, and the North Dakota Supreme Court affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- Engebretson v. N.D. Workers Comp. Bureau, 1999 ND 112, ¶ 10, 595 N.W.2d 312
- Feist v. N.D. Workers Comp. Bureau, 1997 ND 177, ¶ 8, 569 N.W.2d 1
- Power Fuels, Inc. v. Elkin, 283 N.W.2d 214, 220 (N.D. 1979)
- Negaard-Cooley v. N.D. Workers Comp. Bureau, 2000 ND 122, ¶ 18, 611 N.W.2d 898
- Hayes v. N.D. Workers Comp. Bureau, 425 N.W.2d 356, 357 (N.D. 1988)

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