

E-FILED

CVCV062137 - 2021 DEC 06 04:01 PM  
CLERK OF DISTRICT COURTPOLK  
Page 1 of 9**IN THE IOWA DISTRICT COURT FOR POLK COUNTY****ROGER BLASDELL**  
**Petitioners,****v.****LINNHAVEN, INC.,**  
**Respondent.****Case No. CVCV062137****RULING ON PETITIONER'S  
APPLICATION FOR JUDICIAL REVIEW**

This matter comes before the Court on Roger Blasdell's July 7, 2021, Petition for Judicial Review. The Court held a hearing on November 12, 2021. After considering the parties' arguments and briefs, as well as the relevant case law, the Court enters the following ruling.

**BACKGROUND FACTS**

Heather Blasdell sustained a work-related injury on November 5, 2012. The workers compensation proceeding that followed found Heather suffered a permanent physical and mental injury. During the arbitration hearing, the parties stipulated that Heather and Claimant Roger Blasdell were married. On September 9, 2016, Heather died of an overdose of medications. The police determined it was either accidental or a suicide.

At the Arbitration hearing for this claim, Claimant testified that he and Heather had been married since 2008 but ceased living together in January 2011. Claimant states the reason was financial and Heather left Claimant with her son in their marital home, seeking employment elsewhere. Soon after, Claimant began a relationship with a Ms. Lee. Claimant also testified that he attempted to contact Heather multiple times after she moved. Heather's son testified that Claimant was successful in raising Heather, but Ms. Lee informed a private investigator that Claimant was unable to make contact with Heather.

Claimant testified that he would send Heather \$50 to \$100 per week and occasionally Heather would send him money back. On his 2011 and 2015 W4 forms Claimant indicated he was single. However, in his 2011 and 2014 taxes, Claimant file as married filed separately.

Claimant filed a petition seeking death benefits. The case proceeded to Arbitration Hearing on May 15, 2018, before Deputy Commissioner Erica Fitch. On July 12, 2019, Commissioner Joseph Cortese II filed an Order of Delegation of Authority stating as follows: "Pursuant to Iowa Code section 17A.15(2) the authority for issuing a proposed decision in this matter will be assigned to Deputy Commissioner Stephanie J. Copley due to the present unavailability of Deputy Commissioner Erica J. Fitch."

Claimant did not file an objection or an appeal to the Order of Delegation of Authority. On August 6, 2019, Deputy Copley issued an Arbitration Decision finding Claimant "willfully deserted Heather and therefore is not entitled to death benefits." Deputy Copley issued a Rehearing Decision regarding Claimant's demeanor on July 24, 2020. Claimant subsequently filed a Notice of Appeal. Claimant's Appeal Brief contained the first objection to the Order of Delegation of Authority.

On June 8, 2021, Deputy Commissioner James Christensen issued an Appeal Decision finding that Claimant waived any argument that the demeanor hearing was an inadequate remedy. Deputy Christensen also found Claimant "did not object to the demeanor hearing" and he "did not argue, at the July 20, 2020 hearing, that the demeanor hearing was an inadequate remedy." Deputy Christensen found that the doctrines of judicial estoppel and res judicata did not bar the Respondents from raising the issue of Claimant's marital status as an issue in the case. Deputy Christensen also concluded

Claimant willfully deserted Heather prior to the work injury, so he was not entitled to collect survivor's benefits.

### **STANDARD OF REVIEW**

The Iowa Administrative Procedure Act, Iowa Code chapter 17A, governs the scope of the Court's review in workers' compensation cases. Iowa Code § 86.26 (2019); *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 218 (Iowa 2006). "Under the Act, we may only interfere with the commissioner's decision if it is erroneous under one of the grounds enumerated in the statute, and a party's substantial rights have been prejudiced." *Meyer*, 710 N.W.2d at 218. A party challenging agency action bears the burden of demonstrating the action's invalidity and resulting prejudice. Iowa Code § 17A.19(8)(a). This can be shown in a number of ways, including proof the action was *ultra vires*; legally erroneous; unsupported by substantial evidence in the record when that record is viewed as a whole; or otherwise unreasonable, arbitrary, capricious, or an abuse of discretion. See *id.* § 17A.19(10). The district court acts in an appellate capacity to correct errors of law on the part of the agency. *Grundmeyer v. Weyerhaeuser Co.*, 649 N.W.2d 744, 748 (Iowa 2002).

"If the claim of error lies with the agency's findings of fact, the proper question on review is whether substantial evidence supports those findings of fact" when the record is viewed as a whole. *Meyer*, 710 N.W.2d at 219. Factual findings regarding the award of workers' compensation benefits are within the commissioner's discretion, so the Court is bound by the commissioner's findings of fact if they are supported by substantial evidence. *Mycogen Seeds v. Sands*, 686 N.W.2d 457, 464-65 (Iowa 2004). Substantial evidence is defined as evidence of the quality and quantity "that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue

when the consequences resulting from the establishment of that fact are understood to be serious and of great importance.” Iowa Code § 17A.19(10)(f)(1); *Mycogen*, 686 N.W.2d at 464.

The application of the law to the facts is also an enterprise vested in the commissioner. *Mycogen*, 686 N.W.2d at 465. Accordingly, the Court will reverse only if the commissioner's application was “irrational, illogical, or wholly unjustifiable.” *Id.*; Iowa Code § 17A.19(10). “A decision is “irrational” when it is not governed by or according to reason.” *Christensen v. Iowa Dep’t. of Revenue*, 944 N.W.2d 895 at 905 (Iowa 2020). A decision is “illogical” when it is “contrary to or devoid of logic.” *Id.* “A decision is “unjustifiable” when it has no foundation in fact or reason” or is “lacking in justice.” *Id.* This standard requires the Court to allocate some deference to the commissioner's application of law to the facts, but less than it gives to the agency's findings of fact. *Larson Mfg. Co. v. Thorson*, 763 N.W.2d 842, 850 (Iowa 2009).

### **MERITS**

#### **I. Whether the demeanor hearing is an adequate remedy**

Claimant argues that delegation of authority to write the arbitration decision was improper. The Appeal Decision found that Claimant waived this argument by not raising a complaint about the delegation until 125 days after the Arbitration Decision was entered. Claimant provides no case law, statute, or argument in dispute of that holding. Claimant has not carried his burden. Iowa Code § 17A.19(8)(a). Additionally, the benefit being conferred by having the Deputy who heard the case write the ruling is to have the Deputy determine the demeanor of the Claimant. The commission granted a second demeanor

hearing and found Claimant to be a credible witness. Therefore, Claimant has not been prejudiced by the delegation of authority.

## **II. Whether Complainant was a dependent of Heather**

“When death results from the [workplace] injury, the employer shall pay the dependents who were wholly dependent on the earnings of the employee for support at time of the injury...” Iowa Code § 85.31(1)(a). The surviving spouse is “conclusively presumed to be wholly dependent upon the deceased employee” unless, “at the time of injury, the surviving spouse had willfully deserted the deceased without fault of the deceased...” Iowa Code § 85.42(1)(a). Accordingly, for Complainant to collect, at the time of injury, Claimant must (1) be Heather’s spouse and (2) not have deserted her.

Both parties and the Deputy Christensen seem to treat the questions of whether Claimant and Heather were married at the time of injury<sup>1</sup> and whether Claimant abandoned Heather as one in the same. They are not. A person could abandon their spouse but they would still be married until a divorce decree was entered as there is no common law divorce. *In re Weems’ Estate*, 139 N.W.2d 922, 924 (Iowa 1966). It is undisputed that Claimant and Heather never received a divorce decree. Therefore, at the time of Heather’s injury, she and Claimant were still married.<sup>2</sup>

Deputy Christensen’s finding that Claimant did not receive money from Heather and is therefore not wholly dependent on her, as required by Iowa Code section 85.31(1)(a), does not take into consideration section 85.42(1). App. Dec. at 7. A spouse

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<sup>1</sup> The Deputy Commission is correct in stating the statute plainly states that the relationship at the time of the injury is the proper question, not the relationship at the time of death. App. Dec. at 6; Iowa Code § 85.31(1)(a).

<sup>2</sup> The Court passes on the question of whether Respondent is estopped from arguing this point because the law is clear on the matter of whether Claimant and Heather were still legally married at the time of injury.

is not required to receive support in order to be considered wholly dependent. Iowa Code § 85.42(1). The law presumes Claimant wholly dependent on Heather. *Id.* This presumption is subject to the desertion exception, however. *Id.* at 85.42(1)(A). To be clear, in order for this exception to apply, Claimant had to have deserted Heather. *Id.* If Heather deserted Claimant, Claimant would still be eligible for survivor's benefits. *Id.* Likewise, if neither party deserted one another, Claimant is eligible for survivor's benefits. *Id.* If both parties deserted the marriage, then it cannot be said Heather is without fault, so Claimant would still collect. *Id.* Therefore, the only question the Court need decide is whether Claimant deserted Heather. Iowa Code § 85.42(1)(A).

This law is from a time of fault divorces, is therefore antiquated, and sorely in need of modernizing by the legislature. As such, the case law regarding this issue is from 1919, and the Court must apply an outdated view of marital relationships. In *James Black Dry Goods v. Iowa Indus. Comm'r*, 173 N.W. 23 (Iowa 1919), the Iowa Supreme Court used the same standard used in fault divorce cases to determine whether the surviving spouse abandoned the deceased spouse. The factors are whether "there is a design to forsake the other spouse willfully or without cause, and thereby break up the marital union, deliberate intent to cease living with the other as spouse, abnegation of all duties of the marriage relations, the actual ceasing of cohabitation, and the intent to desert." *Id.* at 25. If there was consent for one spouse to leave there may not be desertion. *Id.* (citing *Day v. Day*, 50 N.W. 979 (Iowa 1892)). Finally, mere separation is insufficient as "separation and desertion are not synonymous." *James Black*, 173 N.W. at 25 (citing *Kupka v. Kupka*, 109 N.W. 610 (Iowa 1906); *Tipton v. Tipton*, 151 N.W. 90 (Iowa 1915)).

Here, Deputy Christensen found:

The record indicates that Roger and Heather intended to terminate their marriage relationship in January 2011. The record indicates Heather moved out of the house she shared with Roger at that time. Short after that in early 2011, Roger began a relationship with Ms. Lee. This was a relationship that lasted at least five years and included several years of cohabitation. The record reflects that after January 2011 Roger and Heather never lived together or had any sexual relationship. Given this record, it is found that Heather and Roger ended their marital relationship in January 2011. It is also found that Roger willfully and intentionally separated from Heather at that time.

As noted in the record, the separation between Heather and Roger occurred due to financial reasons. Given this fact, it is found that Roger's willful separation from Heather was without the fault of Heather.

App. Dec. at 7.

Deputy Christensen misapplied these facts to the law. These findings do not support the contention that Claimant abandoned Heather. Claimant remained in the marital home with Heather's child. Additionally, according to unrefuted testimony, Claimant attempted to contact Heather several times. App. Dec. at 3. Heather's son testified that Claimant was successful, while Ms. Lee stated Claimant was unsuccessful in contacting Heather. *Id.* Finally, while true that Claimant listed himself as single on his 2011 W4 form, Claimant stated on his 2011 and 2012 taxes that his marital status was "married filed separately." App. Dec. at 2. This shows that Claimant did not have the requisite intent to desert Heather as is required by case law. Additionally, the finding that both parties intended to end the marriage suggests that Heather is not without fault. Therefore, Deputy Christensen's application of facts to law is unjustifiable as it does not have a basis in fact.

### **III. Whether the willful injury exception applies**

In order for Claimant to be entitled to survivor's benefits, Heather's death needed to result from the workplace injury. Iowa Code § 85.31(1)(a). Typically, willful self-injury is

a bar to recovery. Iowa Code § 85.16. However, in Iowa, and the majority of the states, suicide will not bar recovery of workers' compensation benefits "upon proof of a chain of causation directly linking an employment injury to a worker's loss of normal judgment and domination by a disturbance of the mind, causing suicide. *Kostelac v. Feldman's Inc.*, 497 N.W.2d 853, 857 (Iowa 1993) (quotations omitted) (rejecting the "uncontrollable impulse" or "delirium of frenzy" standard employed in *Schofield v. White*, 95 N.W.2d 40, 46 (Iowa 1959)). "[T]he suicide must be traced directly to some injury arising out of and in the course of employment." *Kostelac*, 497 N.W.2d at 857.

The Deputy Commission never reached this issue. Remand is appropriate so the commission can make the factual findings necessary to make the determination on this issue. Iowa Code § 17A.19 (10).

### **ORDER**

Therefore, for the reasons stated above, the Court hereby overturns the commission's determination that Complainant abandoned Heather, and **REMANDS** the case to the commission to determine whether the willful injury exception applies.

SO ORDERED.





State of Iowa Courts

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**Type:**

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ROGER BLASDELL VS LINNHAVEN INC ET AL  
OTHER ORDER

So Ordered

A handwritten signature in black ink, appearing to read "Celene Gogerty", is written over a horizontal line.

Celene Gogerty, District Judge  
Fifth Judicial District of Iowa

Electronically signed on 2021-12-06 16:01:06