

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ROGER BLASDELL, surviving spouse  
of Heather Blasdel,

Claimant,

vs.

LINNHAVEN, INC.,

Employer,

and

ACCIDENT FUND NATIONAL  
INSURANCE COMPANY/UNITED  
HEARTLAND,

Insurance Carrier,  
Defendants.

**FILED**  
AUG 06 2019  
WORKERS' COMPENSATION

File No. 5044236

ARBITRATION

DECISION

Head Note No.: 1805

**STATEMENT OF THE CASE**

Claimant Roger Blasdel, surviving spouse of Heather Blasdel, filed a petition in arbitration seeking death benefits from defendants Linnhaven, Inc., employer, and Accident Fund National Insurance Company/United Heartland, insurance carrier. This matter was heard in Cedar Rapids, Iowa, on May 15, 2018, by Deputy Workers' Compensation Commissioner Erica J. Fitch.

On July 12, 2019, pursuant to Iowa Code section 17A.15(2), the Iowa Workers' Compensation Commissioner delegated authority to the undersigned to enter a proposed decision in this matter due to the unavailability of Deputy Commissioner Fitch.

Pursuant to the requirements of Iowa Code section 17A.15(2), I have read the entirety of the record created before Deputy Commissioner Fitch as well as the parties' post-hearing briefs.

Although there are several factual disputes between the parties, neither party argues demeanor is the operative decision making factor in this case. Thus, I conclude I can proceed to issue a proposed decision pursuant to Iowa Code section 17A.15(2).

The parties submitted a hearing report prior to the commencement of the evidentiary hearing. On that hearing report, the parties entered into certain stipulations Deputy Commissioner Fitch accepted that hearing report and entered an order at the time of hearing noting her approval of the stipulations and disputes noted on the hearing report. I therefore accept the stipulations noted on the hearing report, and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are bound by their stipulations.

The record presented to and accepted by Deputy Commissioner Fitch at hearing consists of Joint Exhibits 1 through 7, Claimant's Exhibits 1 through 7, Defendants' Exhibits A through F, and the testimony of Roger Blasdell and Austen Burrige. The evidentiary record closed on May 15, 2018. The case was considered fully submitted upon receipt of the parties' briefs on July 16, 2018.

### **ISSUES**

The parties submitted the following disputed issues for resolution:

1. Whether Roger Blasdell "willfully deserted" Heather Blasdell, thereby prohibiting his entitlement to death benefits pursuant to Iowa Code section 85.41(1)(a).
2. Whether Heather Blasdell's death was the result of her willful intent to injure herself, thereby barring any claim for benefits pursuant to Iowa Code section 85.16(1).
3. Rate.
4. Costs.

### **FINDINGS OF FACT**

Heather Blasdell (hereinafter "Heather") sustained a work-related injury on November 5, 2012, when she was struck in the back of her right heel with a grocery cart. (Arbitration Decision, page 2) As determined by a deputy commissioner in a December 12, 2014 arbitration decision, Heather also developed low back pain and depression as a result of the November 5, 2012 incident. (Arb. Dec., pp. 9-10) The presiding deputy commissioner determined Heather was unable to work due to her work-related psychological conditions, and as such, was permanently and totally disabled. (Arb. Dec., pp. 10-11) The presiding deputy commissioner's decision was affirmed on appeal on May 20, 2016.

At the time of the injury on November 5, 2012, Heather was legally married to Roger Blasdell (hereinafter "Roger"), though they had separated nearly two years earlier in January of 2011. (Hearing Transcript, p. 11) Their separation in 2011 occurred for "mostly financial" reasons after Heather lost her job. (Hrg. Tr., p. 12) When Roger and Heather were unable to maintain their rent at their home in Delhi, Iowa, Heather moved

out first, and Roger moved out a few months later. (Hrg. Tr., p. 12) Heather initially moved to Clinton, Iowa, and Roger moved to Manchester, Iowa. (Hrg. Tr., p. 13)

Roger testified he and Heather did not have a sexual relationship after they separated. (Hrg. Tr., p. 28) Shortly after the separation, Roger initiated a relationship with another woman, Angela Lee. (Joint Exhibit 5, p. 6 [Roger Depo. Tr., p. 22]) Roger's relationship with Ms. Lee continued at the time of Heather's work injury. (See JE 6, p. 2 [Angela Lee Depo. Tr., p. 7])

In a W-4 form completed in 2011, Roger listed himself as "single" because, according to Roger, the form said "if we were separated to check single." (Hrg. Tr., pp. 23-24; Defendants' Ex. E, p. 3) In his 2011 and 2012 taxes, he filed as "married filing separately." (Hrg. Tr., p. 29; JE 4, pp. 1, 3, 5, 7)

In 2012, Heather was living in Cedar Rapids with another man and her son, Austen. (Hrg. Tr., pp. 15, 21) Roger did not know whether this man was "just a friend" or a boyfriend; he testified he was "not sure what they defined their relationship as." (Hrg. Tr., p. 22) Roger never lived with Heather at her residence in Cedar Rapids. (Hrg. Tr., p. 24)

Despite their separation, Heather's son, Austen, testified that Heather and Roger were speaking on a consistent basis at the time of Heather's work-related injury to "check up and see how everybody was doing." (Hrg. Tr., p. 35)

Roger testified that in 2012 he believed Heather remained the beneficiary of his life insurance policy and his emergency contact in his personnel file. (Hrg. Tr., pp. 16-17) Unfortunately, Roger failed to produce any documentation to corroborate his testimony. (Hrg. Tr., pp. 20-21)

Ultimately, regardless of whether Heather was Roger's beneficiary or emergency contact or whether they spoke regularly around the time of her work-related injury, I find that both Heather and Roger intended to terminate their marital relationship in early 2011—nearly two years before Heather's work-related injury. Heather moved out of the home she shared with Roger, and shortly thereafter Roger began a relationship with another woman—a relationship that continued for the next five years and included several years of cohabitation. Roger's relationship with Ms. Lee reflects his willful intention to separate from Heather. Further, Heather and Roger never lived together or had any sexual relationship after their separation in 2011. While they may have spoken regularly at the time of Heather's work-related injury, these exchanges were not romantic; they were to check up on one another and their children. For these reasons, I find Heather and Roger ended their marriage relationship in 2011 and that Roger willfully and intentionally separated from Heather at that time.

I also find that the cessation of Heather and Roger's marriage relationship in 2011 came as a result of financial hardship; not due to any abhorrent behavior from Heather, such as alcoholism, drug use, or physical abuse.

Sadly, in the evening of September 9, 2016, Heather was found dead in her home by her son. (Hrg. Tr., pp. 36-37) An autopsy report revealed the cause of death as “mixed drug (quetiapine and zolpidem) intoxication.” (JE 1, p. 2) Defendants admitted these drugs were prescribed as a result of Heather’s work-related mental condition. (Claimant’s Ex. 2, p. 2)

Upon arrival on the scene on September 9, 2016, an officer spoke with Heather’s son and a friend, both of whom indicated that “Heather would routinely take excess amounts of her prescription medications to get ‘high’” and that Heather “appeared to be ‘high’” when they spoke with her around 4 a.m. that morning. (JE 2, p. 3) Per the officer’s report, Heather had a history of suicide attempts and “was recently hospitalized for an attempt.” (JE 2, p. 3) The officer also discovered what appeared to be a suicide note in a stack of paperwork on Heather’s bed, though this note was undated. (JE 2, p. 4)

The autopsy report, however, listed the manner of Heather’s death as “undetermined.” (JE 1, pp. 2, 6) The officer on scene believed Heather’s death was either the result of an “accidental overdose” or a “successful suicide attempt.” (JE 2, p. 4) Heather’s son disputed any notion of a suicide attempt, describing Heather’s emotional state leading up to her death as “really well.” (Hrg. Tr., p. 37)

Heather and Roger remained legally married but continued to be separated at the time of Heather’s death. At the time of her death, Heather lived in the same town as Roger, but Heather was living with a relative. (Hrg. Tr., p. 14) At her deposition in January of 2014, Heather did not know Roger’s address. (Def. Ex. A, p. 3 [Heather Depo. Tr., p. 6])

In the interim between Heather’s work injury and her death, Roger continued his relationship with Ms. Lee. In fact, the two lived together from 2015 through 2017. (See JE 6, p. 2 [Angela Lee Depo. Tr., p. 7])

Roger testified that despite their separation and his relationship with Ms. Lee, he and Heather remained in contact after Heather’s work injury and before her death. He testified they talked “quite often” via messaging and phone calls and he would “give her money when she needed it” because “she wasn’t getting very much for benefits.” (Hrg. Tr., pp. 15, 18) He estimated he provided Heather with \$50 to \$100 on a weekly basis. (Hrg. Tr., p. 16) Roger’s testimony was consistent with the testimony of Heather’s son, Austen. (Hrg. Tr., pp. 35-36)

Heather, however, rarely provided Roger with any financial assistance. He testified she would try to give him money to pay him back “maybe five times a year” and in sums of \$30 or less. (Hrg. Tr., pp. 28-29)

Heather did not share any of her workers’ compensation benefits with Roger, nor did she ask Roger to testify at her workers’ compensation hearing in October of 2014. (Hrg. Tr., pp. 30-31)

In his 2013 taxes, Roger again filed as “married filing separately.” (JE 4, pp. 9, 11) In 2015, Roger again marked “single” in a W-4 form. (Hrg. Tr., p. 24; Def. Ex. E, p. 4)

Just before Heather’s death, she was in a relationship with a man other than Roger. (JE 2, p. 3) (“Heather and her boyfriend had recently broken up a day or a couple of days prior [to her death].”)

I find that the period of time between Heather’s work-related injury and her death reflects a continuation of the termination of the marital relationship between Heather and Roger. While Roger may have assisted Heather financially after her work-related injury, he and Heather continued to live separately, Roger remained in a romantic relationship with Ms. Lee, Heather was in at least one romantic relationship with another individual, and Heather did not share her workers’ compensation benefits with Roger or support him in any way. I further find that the continuation of their separation was not due to any abhorrent conduct by Heather.

### CONCLUSIONS OF LAW

Defendants argue Roger “willfully deserted” Heather and that this willful desertion disqualifies him from receipt of any death benefits. Before addressing the merits of defendants’ argument, however, I must first address whether defendants are precluded from raising it.

In the underlying arbitration hearing on October 7, 2014, Heather and defendants stipulated—for purposes of Heather’s “Rate of Compensation”—that Heather was married and entitled to three exemptions “at the time of the alleged injury.” (Oct. 7, 2014 Hearing Report, p. 2) That stipulation, along with the stipulation that Heather’s resulting rate was \$408.46, was accepted by the presiding deputy commissioner at hearing. (Oct. 7, 2014 Hrg. Report, p. 3; Arb. Dec., p. 1) In the resulting arbitration decision, the deputy commissioner specifically indicated that “[n]o findings of fact or conclusions of law will be made with respect to the parties’ stipulations.” (Arb. Dec., p. 1)

Relying on the doctrines of “the law of the case” and judicial estoppel, Roger asserts defendants should be precluded from claiming he is not Heather’s dependent in the present action for death benefits.

“The doctrine of the law of the case represents the practice of courts to refuse to consider what has once been *decided*.” State v. Grosvenor, 402 N.W.2d 402, 405 (Iowa 1987) (emphasis added); see Wolfe v. Graether, 389 N.W.2d 643, 651 (Iowa 1986) (“The general understanding of the doctrine of the law of the case is that it applies only to so much of an opinion by an appellate court in a former decision in the same case as was *essential to the determination required of the court*.” (emphasis added)). Further, the agency or court must “actually decide the issue” before it becomes the law of the case. Id. (citing Winnebago Industries, Inc. v. Haverly, 727 N.W.2d 567, 573

(Iowa 2006) (“The agency had to actually decide the issue of liability for the law-of-the-case doctrine to apply.”)).

In the instant case, the parties stipulated Heather was married and entitled to three exemptions for purposes of her rate of compensation. As such, there was no decision for the agency to make regarding Heather’s marital status. Furthermore, even if the accepted stipulation is considered a “decision” by the agency, Heather’s marital status had no impact on her underlying entitlement to workers’ compensation benefits. Thus, it was not essential to the ultimate determination required of the agency. See Grosvenor, 402 N.W.2d at 405; Wolfe, 389 N.W.2d at 651.

More importantly, the agency’s acceptance of the parties’ stipulations only pertained to Heather’s rate and had nothing to do with Roger’s status as a “surviving spouse” or dependent for purposes of death benefits under Iowa Code section 85.31. In fact, the agency *could not* decide whether Roger was a surviving spouse or dependent *for purposes of death benefits* at the time of the October 7, 2014 arbitration hearing because Heather was still alive, meaning a claim for death benefits was not yet ripe. See Haverly, 727 N.W.2d at 573 (Iowa 2006) (“The answer to Haverly’s law-of-the-case argument is that the agency did not decide anything as to Winnebago’s liability for compensation benefits, but only his right to alternate care. In fact, for reasons we discuss later, the agency *could not* decide liability at that stage.”); McClure v. Employers Mut. Cas. Co., 238 N.W.2d 321, 329 (Iowa 1976) (“A dependent’s right to workmen’s compensation is a distinct claim.”). Ultimately, therefore, the agency could not and did not decide the issue of Roger’s status as a surviving spouse or dependent for purposes of death benefits at the time of the underlying arbitration decision. Because no such decision was made, the law of the case doctrine does not apply in the present action. See Brewer-Strong, 913 N.W.2d at 246; Haverly, 727 N.W.2d at 573.

This law of the case doctrine is also inapplicable “if the facts before the court upon the second trial are materially different from those appearing upon the first.” Brewer-Strong v. HNI Corp., 913 N.W.2d 235, 246 (Iowa 2018) (quoting Grosvenor, 402 N.W.2d at 405). In this case, the facts during the hearing in the present action were tremendously different; most obviously, Heather was no longer alive. Brewer-Strong, 913 N.W.2d at 246. (“Likewise, the law-of-the-case doctrine is not applicable because the facts before the workers’ compensation commissioner became materially different after HNI accepted liability for the injury.”) For these reasons, I conclude the law of the case doctrine is inapplicable and does not bar defendants’ argument.

Roger also asserts defendants are precluded from challenging his status as a dependent in the present action pursuant to the doctrine of judicial estoppel. This doctrine “prohibits a party who has successfully and unequivocally asserted a position in one proceeding from asserting an inconsistent position in a subsequent proceeding.” Wilson v. Liberty Mutual Group, 666 N.W.2d 163, 166 (Iowa 2003) (quoting Vennerberg Farms, Inc. v. IGF Ins. Co., 405 N.W.2d 810, 814 (Iowa 1987)). It is intended to prevent “deliberately inconsistent—and potentially misleading—assertions from being successfully urged in succeeding tribunals.” Id. However, “judicial estoppel applies only

when the position asserted by a party was material to the holding in the prior litigation.” Tyson Foods, Inc. v. Hedlund, 740 N.W.2d 192, 198 (Iowa 2007) (emphasis added). “Absent judicial acceptance of the inconsistent position, application of the rule is unwarranted because no risk of inconsistent, misleading results exists.” Id. (quoting Vennerberg, 405 N.W.2d at 814).

In this case, Heather’s stipulation regarding her marital status for purposes of her rate was not material to any of the issues decided by the agency in the underlying arbitration decision. Vennerberg, 405 N.W.2d at 814 (“The precise date of Stennett’s license revocation was immaterial in the prior litigation.”) Furthermore, none of the deputy commissioner’s findings or conclusions relating to Heather’s entitlement to benefits were based on Heather’s stipulations regarding her marital status or exemptions as they pertained to Heather’s rate. See Hedlund, 740 N.W.2d at 198 (“However, the commissioner did not act in any way to dispose of the application based on that position.”) Ultimately, Heather’s stipulations regarding her rate “played no role” in the deputy commissioner’s findings or conclusions pertaining to any of the disputed issues. Id. at 199. For these reasons, judicial estoppel does not apply. Id.

Another legal theory is potentially implicated by Roger’s preclusion argument: issue preclusion. In order to rely upon the doctrine of issue preclusion, however, the issue sought to be precluded must have been actually raised and litigated in the prior action. Hedlund, 740 N.W.2d at 195 (Iowa 2007). First, because Heather’s marital and exemption status was stipulated, it was neither raised nor litigated. Additionally, Roger’s status as a surviving spouse or dependent for purposes of death benefits was not raised or litigated because such a claim was not yet ripe. See McClure, 238 N.W.2d at 329 (“A dependent’s right to workmen’s compensation is a distinct claim.”). As such, the doctrine of issue preclusion is not applicable.

Having concluded defendants are not barred from litigating the issue of Roger’s status as a surviving spouse or dependent for purposes of a death benefits claim, I now turn to the merits of defendants’ argument.

Iowa Code section 85.31 states:

When death results from the injury, the employer shall pay the dependents who were wholly dependent on the earnings of the employee for support at the time of the injury . . . as follows:

- (1) To the surviving spouse for life or until remarriage . . . .

Iowa Code § 85.31(1)(a)(1).

Iowa Code section 85.42 then provides that the surviving spouse “shall be conclusively presumed to be wholly dependent upon the deceased employee” unless “it is shown that at the time of the injury the surviving spouse had willfully deserted deceased without fault of the deceased.” Iowa Code § 85.42(1)(a). When willful

desertion is shown, “then such survivor shall not be considered dependent in any degree.” Id.

Defendants do not dispute that Heather and Roger remained legally married at the time of Roger’s death. As such, Roger was, technically speaking, a surviving spouse for purposes of Iowa Code sections 85.31 and 85.42. Instead, defendants assert Roger willfully deserted Heather, which would preclude Roger from being considered a dependent pursuant to Iowa Code section 85.42(1)(a).

Unfortunately, there is little case law addressing willful desertion under Iowa Code section 85.42(1)(a), and what little case law exists is significantly antiquated. For example, it appears the only time this concept was considered by the Iowa Supreme Court was a century ago in 1919. In that case, the court determined several elements—“the cessation of the marriage relations, the intent to desert, and the absence of consent or misconduct of the party alleged to have been deserted”—were “necessary” to constitute desertion under the workers’ compensation statute. James Black Dry Goods Co. v. Iowa Industrial Commissioner, 173 N.W. 23, 24 (Iowa 1919). The court pulled these elements from the then-controlling divorce statute because there was “little, if any, difference” between what constituted desertion in divorce cases and workers’ compensation cases. See id. The court noted “[b]oth statutes involve the element of willfulness.” Id.

As of 1970, however, the legislature revised Iowa law governing divorce and set forth new procedures for dissolution of marriage “to eliminate the specific categories of fault grounds enumerated in the previous statutes,” which included willful desertion. See In re Kurtz’ Marriage, 199 N.W.2d 312, 313 (Iowa 1972) (explaining the effect of Iowa Code Chapter 598). In other words, “[d]ivorce in Iowa is no longer governed by fault of one of the parties.” In re Morgan’s Marriage, 218 N.W.2d 552, 556 (Iowa 1974).

Iowa Code section 85.42(1)(a) was not amended to reflect the legislature’s decision to remove fault from divorce law; the “without fault of the deceased” language still remains. See Iowa Code § 85.42(1)(a). Given the legislature’s overhaul of Iowa Code Chapter 598, it seems likely that fault is less important now than when the “willful desertion” section of the Iowa workers’ compensation law was drafted more than a century ago. Regardless, I am bound by the language of the statute. Ultimately, therefore, the cessation of the marriage relations, the surviving spouse’s intent to desert (which implicates “the element of willfulness”), and whether the decedent was without fault are the controlling elements in the willful desertion analysis. See James Black, 173 N.W. at 24; see also Iowa Code § 85.42(1)(a).

What must be decided first, however, is to which snapshot in time these elements should be applied. Iowa Code section 85.42(1)(a) provides that a surviving spouse is a dependent unless “it is shown that *at the time of the injury* the surviving spouse had willfully deserted deceased.” Iowa Code § 85.42(1)(a) (emphasis added). Nearly a century ago, when the “at the time of the injury” language was included in the statute, the Iowa courts had not yet recognized the concept of a work-related mental



injury. See Iowa Code § 1402(1)(a) (1924). In other words, “at the time of the injury” was presumably drafted to address deaths that *were* the work-related injury; not deaths that occurred much later, like in this case, due to medication prescribed for a mental sequela of a physical work-related injury. It is not clear from the statute, therefore, whether “time of the injury” means the date of the underlying work-related injury or the date of death.

While the date of the underlying work-related injury is the snapshot date for other workers’ compensation issues such as rate, relying on the date of the underlying work-related injury as opposed to the date of death for purposes of the willful desertion analysis would lead to absurd results. Iowa Ins. Inst. v. Core Grp. of Iowa Ass’n for Justice, 867 N.W.2d 58, 75 (Iowa 2015) (“We have long recognized that statutes should not be interpreted in a manner that leads to absurd results.”) First, a spouse does not become a “*surviving* spouse” until a death occurs; in other words, the claim for death benefits is not ripe until the date of death.

Further, if the date of the underlying work-related injury is used, an individual who was married to an injured worker on the date of the underlying work-related injury could claim death benefits even if they divorced months, or even years, before the injured worker died. Applied to a willful desertion scenario, an individual who was married to an injured worker on the date of the underlying work-related injury could claim death benefits even if that individual intended to end the marital relationship, no longer lived with the injured worker, no longer stayed in contact with the injured worker, and had no financial or monetary ties with the injured worker prior to the injured worker’s death. These scenarios are not consistent with the purpose of death benefits, which is to “provide the beneficiaries of deceased workers with a substitute for the support that was previously provided by the decedent.” 99 C.J.S. Workers’ Compensation § 285 (2019).

Using the date of death for the surviving spouse/willful desertion analysis is consistent with the snapshot in time for child dependents as well. Iowa Code § 85.42(2) provides that the snapshot for whether children are conclusively presumed to be wholly dependent for purposes of death benefits is “at the time of the parent’s death.” Iowa Code § 85.42(2); see Kramer v. Tone Bros., 199 N.W. 985, 987 (Iowa 1924) (“The question, however, is whether the children were dependents of deceased at the time of his death.”). Thus, I conclude the date of death is the date on which to analyze Roger “had willfully deserted” Heather.

That said, even if the date of the underlying work-related injury (and not the date of death) is the appropriate snapshot date for the willful desertion analysis, I still conclude Roger had willfully deserted Heather without fault by Heather as of 2011—before her underlying work-related injury. In other words, regardless of which date is used, I conclude Roger willfully deserted Heather.

As noted by the court in James Black, “the act is willful when there is a design to forsake the other spouse . . . 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.” 173 N.W. at 25.

In this case, I found that Roger and Heather intended to terminate their marriage relationship in 2011. Roger was a willful and intentional participant in this decision, as both he and Heather moved out of their shared home and he initiated a romantic relationship with another woman just a few months after his separation from Heather. Considering the court’s analysis in James Black, I conclude that there was a cessation of the marriage relations in 2011 and that Roger intended to—and willfully did, in fact—separate from Heather in 2011. See id.

The cessation of the marriage relations and Roger’s intent to be separated from Heather continued through her date of death. Roger remained in a romantic relationship with another woman at the time of Heather’s death, and Roger and Heather never resumed their marital relationship through cohabitation, sexual relationship, or any other means, after their initial separation. Thus, I conclude the first two elements of willful desertion are satisfied, regardless of whether Heather’s date of death or the date of her underlying work-related injury is used. See James Black, 173 N.W. at 24-25.

I now turn to the final element, whether the desertion occurred “without fault of the deceased.” See Iowa Code § 85.42(1)(a). Per Roger’s testimony, I found Heather and Roger’s separation occurred largely because of financial strains. It was not the result of alcoholism, drug use, abuse, or any other objectionable or dangerous behavior. See Flanders v. IBP, Inc., File No. 929926 (Arb. June 1995) (finding surviving spouse’s willful desertion was the result of alcohol abuse and physical abuse, which amounted to fault). I therefore conclude Roger’s willful desertion of Heather was without fault on behalf of Heather.

As such, I conclude defendants established that Roger had willfully deserted Heather both at the time of her underlying injury and her death, and that the desertion was without fault on Heather’s behalf. Defendants, therefore, carried their burden to prove that there was a willful desertion under Iowa Code section 85.42(1)(a), meaning Roger shall not be considered as dependent in any degree for purposes of death benefits.

This result is consistent with the purpose of death benefits, which, as mentioned, is to “provide the beneficiaries of deceased workers with a substitute for the support that was previously provided by the decedent.” 99 C.J.S. Workers’ Compensation § 285 (2019). In other words, “[t]he purpose . . . is to protect and provide for “dependents who were wholly dependent on the earnings of the employee.” Bertrand v. Sioux City Grain Exch., 419 N.W.2d 402, 404 (Iowa 1988). Thus, when a surviving spouse intends to end his or her marriage and acts willfully to execute that cessation, then the bond that served as the basis for the surviving spouse’s right to a claim for death benefits is severed. See Thompson v. Lawson, 347 U.S. 334, 337 (Iowa 1954) (“Julia herself, by her purported remarriage, severed the bond which was the basis of her right to claim a death benefit.”).

In this case, Roger's dependence on Heather's earnings ended when they separated in early 2011, nearly two years before her underlying work-related injury and nearly six years before her death. Heather occasionally gave Roger small amounts of money in an attempt to pay back money loaned to her, but this only happened a few times a year and in sums of less than \$30. Importantly, Heather also never shared her workers' compensation benefits with Roger. Roger simply was not dependent on Heather's earnings after 2011, nor was he dependent on Heather for a home, a car, or any other necessities or comforts. Roger's romantic relationship with another woman, with whom he lived for several years, combined with the absence of any dependence on Heather, severed the bond that was the basis of his claim for death benefits.

Because I concluded Roger willfully deserted Heather and therefore is not entitled to death benefits, I will not address defendants' alternative affirmative defense under Iowa Code section 85.16(1). All remaining issues are moot.

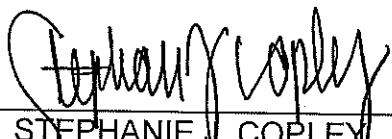
**ORDER**

THEREFORE, IT IS ORDERED:

Roger Blasdell, surviving spouse of Heather Blasdell, takes nothing.

All parties shall bear their own costs.

Signed and filed this 6<sup>th</sup> day of August, 2019.

  
STEPHANIE J. COPLEY  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

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SJC/sam

**Right to Appeal:** This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.