

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

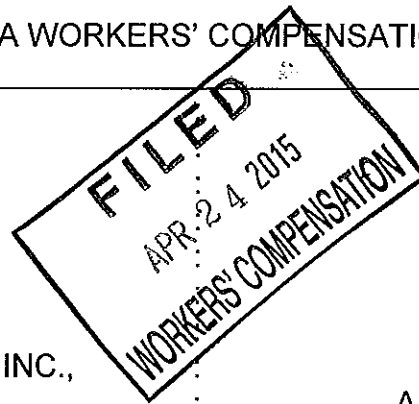
LARRY STULL,  
Claimant,

vs.

KINZE MANUFACTURING, INC.,  
Employer,

and

TRAVELERS INDEMNITY COMPANY  
OF CONNECTICUT,  
Insurance Carrier,  
Defendants.



File No. 5046819

ARBITRATION  
DECISION

Head Note Nos.: 1402.40, 2501

STATEMENT OF THE CASE

Claimant, Larry Stull, filed a petition in arbitration seeking workers' compensation benefits from Kinze Manufacturing, Inc., (Kinze), employer and Travelers Indemnity Company of Connecticut, insurer, both as defendants. This case was heard in Des Moines, Iowa on March 11, 2015 with a final submission date of April 1, 2015.

The record in this case consists of joint exhibits 1-21 and the testimony of claimant.

ISSUES

1. Whether claimant's injury resulted in a permanent disability; and if so
2. The extent of claimant's entitlement to permanent partial disability benefits.
3. Whether there is a causal connection between the injury and the claimed medical expenses.

### FINDINGS OF FACT

Claimant was 63 years old at the time of hearing. Claimant dropped out of high school in the 9<sup>th</sup> grade. He has a GED. Claimant served in the Navy for approximately four years.

Claimant has worked for the railroad replacing railroad ties. He has worked with a company that made playground equipment. He operated heavy equipment laying asphalt. He has also worked in maintenance for an outlet mall. (Exhibit 8, page 164)

Claimant's prior medical history is relevant. Claimant testified he had heat stroke when in the Navy. Claimant had no permanent impairment or permanent restrictions from heat stroke following this incident. In 1995 or 1996 claimant was hit by a car and had a right fibula fracture. Claimant was off work for approximately one year from this accident.

Claimant began with Kinze in April of 2000. Kinze manufactures farm row crop planters and wagons. In approximately October of 2000 claimant broke his left wrist at Kinze and was off work for about a year. Claimant returned to work. Claimant was put in small assembly at Kinze, because of his lifting restrictions. Following that injury, claimant said in 2002 he was found to have issues with cholesterol and put on statin medications.

Claimant testified that in July of 2011 he was working a job at Kinze taking small parts off a paint line. Claimant's job required him to reach up and take parts off of hooks and place the parts in carts or on pallets.

Claimant testified the parts were painted and then passed through a furnace to bake on paint. Claimant testified his work area was approximately a half a block from the furnace area. He said his work area was extremely hot most of the time. Fans and vents were used to cool his area. There was no air conditioning.

Claimant testified he recalled that on July 18, 2011 when he went to work it was a hot day. Claimant says he usually works the shift running from 4:30 p.m. to 2:30 a.m. Claimant said it was so hot on July 18, 2011 his employer had workers go in later due to heat.

Claimant said when he was working on July 18, 2011 he sweated a lot. He said at one point, during his shift, he went to the restroom. He said he had difficulty urinating. He testified when he did urinate, his urine came out dark. Claimant testified when he left his shift that night, he took a long time getting home. He said when he urinated at home, his urine was the color of Coca-Cola.

On July 25, 2011 claimant returned to work. Claimant said around 1:30 in the morning, he felt sick and vomited. He said his foreman told him to sit under a fan. Claimant went home. He said he was nauseated and his muscles were cramping.

On July 26, 2011 claimant was evaluated by Debra Mescher, PA-C. Claimant indicated he was overheated at work on two occasions. Claimant had vomited and had headaches. Claimant was drinking a lot of water. Claimant's urine was dark colored. He was given IVs of saline solution. He was assessed as having heat exhaustion. (Ex. 1, pp. 5-6)

Claimant returned in followup with Physician's Assistant Mescher. Claimant was still very weak. He was assessed as having heat exhaustion and kept off work. (Ex. 1, pp. 8-9)

On August 10, 2011 claimant returned to Physician's Assistant Mescher. Claimant's mucous membranes were very dry. Claimant was referred to St. Luke's Hospital. (Ex. 1, pp. 12-13)

On August 10, 2011 claimant was admitted to St. Luke's. He was given IV fluids. Claimant was weak and fatigued. He was evaluated by Steven Harmer, M.D. Dr. Harmer assessed claimant as being fatigued and weakened in association with heat exhaustion and his medications. Claimant was given IV fluids and released from the hospital the next day. (Ex. 3, pp. 91-94)

Claimant returned in followup to Physician's Assistant Mescher on September 6, 2011. Claimant still had fatigue. Claimant was assessed as having rhabdomyolysis. (Ex. 1, pp. 18-19)

In a September 12, 2011 note Physician's Assistant Mescher indicated claimant could return to normal activities on September 19, 2011. (Ex. 1, p. 20)

On the same date claimant was evaluated by Steven Eyanson, M.D. Dr. Eyanson specializes in rheumatology. Claimant was found to have no rheumatological findings. He was recommended to stay off his cholesterol medications. (Ex. 2, pp. 84-88)

Claimant continued to see Physician's Assistant Mescher in followup care from September of 2011 through October of 2011. Records indicate claimant continued to complain of fatigue. (Ex. 1, pp. 21-32)

In October 2011 claimant was terminated from Kinze, as his FMLA leave had expired, and claimant had not returned to work. (Ex. 1, p. 31; Ex. 8, p. 164)

Claimant was evaluated at the University of Iowa Hospitals and Clinics (UIHC) on October 12, 2011. Claimant was assessed as having rhabdomyolysis, and an acute kidney injury (AKI). Claimant's AKI had resolved. Claimant was told to not take any more statin medications. The statin medications were used to reduce claimant's cholesterol. (Ex. 4, pp. 96-100)

On October 20, 2011 claimant was evaluated by Tina Stec, M.D. at Mercy Occupational Health. Claimant was assessed as having fatigue and muscle pain.

Claimant was allowed to return to sit-down work only. He was noted to be showing improvement in his condition. (Ex. 7, pp. 147-151)

Claimant returned to the UIHC in followup on November 4, 2011. Claimant was assessed as having rhabdomyolysis likely brought on by heat exhaustion and use of statin medications. Claimant had been slow to recover but showed improvement. (Ex. 4, pp. 101-108)

Claimant returned to the UIHC on November 28, 2011. Claimant was found not to have rheumatoid arthritis. (Ex. 4, pp. 109-112)

In a May 23, 2012 report Dr. Stec gave her opinions of the cause of claimant's rhabdomyolysis. Dr. Stec did not believe claimant's rhabdomyolysis was caused by the heat stroke at work. She noted prior records from Physician's Assistant Mescher showed claimant's medications, used to treat his high cholesterol, were changed in December of 2011. She noted a June 24, 2011 visit showed claimant's kidney function tests were showing signs of abnormality with elevated creatinine levels. Dr. Stec noted that studies indicated statin is more than twice as likely to cause rhabdomyolysis when compared with rhabdomyolysis caused by excessive exertion. Dr. Stec noted claimant's work at Kinze was not heavy exertional work. Based on this, she opined claimant's use of medication for his cholesterol was likely the substantial cause of his rhabdomyolysis. (Ex. 7, pp. 154-156)

On August 11, 2012 claimant was taken by ambulance to the UIHC for a stroke. Claimant was noted to have a history of anxiety and depression, and rhabdomyolysis one year prior due to statins. (Ex. 4, pp. 115-122)

On October 10, 2012 claimant returned in followup with Physician's Assistant Mescher for chronic anxiety, depression, gout, and hyperlipidemia. Claimant was found to have a resolving rhabdomyolysis. Claimant was still weak but noted gradual improvement. (Ex. 1, pp. 57-61)

In a March 5, 2014 report, John Kuhnlein, D.O., gave his opinions of claimant's condition following an independent medical evaluation (IME). Claimant complained of generalized aching throughout his body and fatigue. He complained of a general weakness. Claimant was not working, because he believed he was unable to work. Dr. Kuhnlein assessed claimant as having resolved rhabdomyolysis. He also found claimant had a resolved acute renal insufficiency. Dr. Kuhnlein's exam suggested claimant had fibromyalgia. He was unable to explain claimant's widespread pain. Dr. Kuhnlein noted it was unclear why claimant had persistent myopathy. Dr. Kuhnlein found claimant's heat exhaustion, rhabdomyolysis, and acute renal failure were all related to the July of 2011 injury, but all had resolved. He found the etiology of claimant's persistent pain unclear. (Ex. 5, pp. 123-136)

Dr. Kuhnlein found claimant reached MMI for his heat exhaustion, rhabdomyolysis and acute renal injury on November 28, 2011. He noted if claimant's

pain is still related to myopathy and myopathy is not a cofounder of claimant's fibromyalgia, claimant's permanent impairment cannot be rated by the AMA Guides to the Evaluation of Permanent Impairment. Dr. Kuhnlein found claimant had a 10 percent permanent impairment to the body as a whole. He limited claimant to a sedentary physical demand level and restricted claimant to lifting up to 10 pounds. (Ex. 5, pp. 156-157)

In an April 23, 2013 note, Physician's Assistant Mescher indicated claimant was not working due to his rhabdomyolysis. (Ex. 1, p. 66) In an undated note, PA Mescher indicated claimant suffered from fatigue and weakness due to heat exhaustion. (Ex. 21, p. 263)

In an April 21, 2014 letter from the Social Security Administration, claimant was notified he was awarded Social Security Disability benefits commencing in January of 2012. Claimant was found to be disabled, under the Social Security Act, due to rhabdomyolysis, fibromyalgia, a depressive disorder, and an anxiety disorder. (Ex. 18)

Claimant said he is fatigued, tired, and weak. Claimant is limited in doing household chores. He said he has taken statin medications for several years before his work incident in July of 2011.

Claimant has not looked for work since July of 2011. He testified he believes he cannot work because he is too weak and has no energy. He said but for his injury, he would still be working.

#### CONCLUSIONS OF LAW

The first issue to be determined is if claimant's injury resulted in a permanent disability.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.14(6).

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy

of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

Claimant contends his heat stroke at work at Kinze led to his current debilitating condition. Defendants agree claimant did suffer from heat stroke at work. They also agree his heat stroke could have been a potential contributing cause of his rhabdomyolysis. (Defendants' post-hearing brief, p. 5)

Claimant has been assessed as having rhabdomyolysis and an acute kidney injury (AKI). Physician Assistant Mescher opines claimant's rhabdomyolysis was a result of his heat exhaustion. (Ex. 1, pp. 13, 19, 21, 44, 66) Dr. Kuhnlein opines claimant's rhabdomyolysis developed as a sequel to his heat exhaustion. (Ex. 4, pp. 101) Paul Bushman, M.D. and Rebecca Tuetken, M.D. seemed to opine claimant's rhabdomyolysis was brought on by a combination of factors including heat exhaustion and claimant's use of statin medications to combat his cholesterol. (Ex. 3, p. 94; Ex. 4, p. 107)

Dr. Stec opines claimant's rhabdomyolysis was likely due to his cholesterol medications. She bases this opinion on two pieces of information. First, claimant was showing signs of decreased kidney function in June of 2011, approximately one month prior to his incident of heat exhaustion. Second, Dr. Stec researched statistical causes of rhabdomyolysis and found use of the statin medications is more than twice as likely to cause rhabdomyolysis as was heavy exertion. Dr. Stec did not believe claimant was involved in heavy exertion in his job at Kinze. (Ex. 7, pp. 155-156)

Dr. Kuhnlein had the chance to review Dr. Stec's report. He opined while it is true claimant had elevated creatinine levels in June of 2011, his creatinine levels did not spike until the July 25, 2011 incident. Dr. Kuhnlein notes it is only after the heat exhaustion of July of 2011 that claimant had symptoms of renal failure. He notes there is nothing in the record indicating claimant would have developed rhabdomyolysis except for the heat exhaustion event. (Ex. 5, p. 135)

Claimant did have abnormal kidney functions in June 2011. However, it was not until his heat exhaustion on July 25, 2011 that claimant developed rhabdomyolysis. The record suggests that while claimant may have been subject to rhabdomyolysis due to his statin medications, it was not until the heat exhaustion event of July 2011 that his rhabdomyolysis was triggered. For this reason, it is found claimant's rhabdomyolysis was proximately caused by the heat exhaustion in July of 2011.

Physician's Assistant Mescher does opine she believes claimant's current problems are caused by his continued difficulty with rhabdomyolysis. (Ex. 1, p. 66) She also appears to opine claimant's continued problems are caused by heat exhaustion.

(Ex. 21, p. 263) In an October 2012 note, she appeared to believe claimant's rhabdomyolysis was resolving. (Ex. 1, p. 57) Physician's Assistant Mescher offers no explanation for the opinions of Drs. Kuhnlein and Tuetken that find claimant's rhabdomyolysis has resolved. Because Physician's Assistant Mescher offers no explanation for the opinions of Drs. Kuhnlein and Tuetken, regarding resolution of the rhabdomyolysis, and because she appears to opine claimant has continued problems based on two different diagnoses (rhabdomyolysis at Exhibit 1, page 66, and heat exhaustion at Exhibit 21, page 263), it is found her opinions regarding permanency are not convincing.

Dr. Tuetken appears to opine claimant's rhabdomyolysis has resolved. (Ex. 4, p. 100) Dr. Kuhnlein, claimant's expert, also opines claimant's rhabdomyolysis, and renal insufficiency, have both resolved. (Ex. 5, pp. 134, 136-137) Dr. Kuhnlein found claimant had reached MMI for both conditions as of November 28, 2011. (Ex. 5, p. 136) Dr. Kuhnlein noted claimant continues to have myopathic pain, but he does not know what caused claimant's continued myopathy. (Ex. 5, p. 137)

Both Dr. Tuetken and Dr. Kuhnlein opine claimant's rhabdomyolysis and acute renal failure have resolved. Dr. Kuhnlein has no explanation why claimant has fibromyalgia. As noted, Dr. Stec does not believe claimant's rhabdomyolysis was caused by heat exhaustion. Physician's Assistant Mescher's opinions regarding permanency are found not convincing. Given this record, claimant has failed to carry his burden of proof his rhabdomyolysis and acute kidney injury resulted in a permanent impairment.

I have empathy for claimant's situation. However, claimant's own expert, Dr. Kuhnlein, opined claimant's rhabdomyolysis and acute renal failure have resolved as of November 28, 2011. Dr. Kuhnlein has no explanation why claimant continues to have fatigue, pain and muscle weakness. He believes claimant might have fibromyalgia, but does not opine if the fibromyalgia was caused by the rhabdomyolysis or the acute kidney injury. Given this record, I cannot find in claimant's favor.

As claimant has failed to carry his burden of proof his rhabdomyolysis and acute renal failure resulted in a permanent impairment, the issue regarding claimant's entitlement to permanent partial disability benefits is moot.

The final issue to be determined is if there is a causal connection between the injury and the claimed medical expenses.

The employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies for all conditions compensable under the workers' compensation law. The employer shall also allow reasonable and necessary transportation expenses incurred for those services. The employer has the right to choose the provider of care, except where the employer has denied liability for the injury. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 1975).

Claimant's expert opines claimant reached MMI for his rhabdomyolysis and acute renal failure as of November 28, 2011. (Ex. 5, p. 136) Based on this, it is found defendants are liable for medical expenses up to November 28, 2011. Defendants are not liable for medical expenses incurred after that date.

ORDER

THEREFORE IT IS ORDERED:

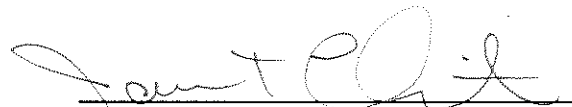
That claimant shall take nothing in the way of permanent partial disability benefits from this proceeding.

That defendants shall pay claimant's medical expenses incurred up to November 28, 2011. Defendants are not liable for any medical expenses incurred after that date.

That defendants shall file subsequent reports of injury as required under rule 876 IAC 3.1(2).

That defendants shall pay the costs of this matter.

Signed and filed this 24<sup>th</sup> day of April, 2015.

  
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JAMES F. CHRISTENSON  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

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JFC/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.