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Judge:	
Official File Stamp:	**04/01/2021 01:59 PM**
Court:	**POLK**
Case Title:	**MERCY MEDICAL CENTER ET AL V NORMA LUND**
Document(s) Submitted:	**OROT-OTHER ORDER DECISION OF WORKERS' COMP COMMISSIONER IS REVERSED & REMANDED FOR FURTHER PROCEEDINGS/ CC TO RESPONDENT**
Filed by or in behalf of:	**MICHAEL HUPPERT**

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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

MERCY MEDICAL CENTER and INDEMNITY INSURANCE COMPANY OF NORTH AMERICA, **Petitioners,** **vs.** **NORMA LUND,** **Respondent.**	**CASE NO. CVCV060901** **RULING ON PETITION FOR JUDICIAL REVIEW**

This is a judicial review proceeding in which the petitioners seek judicial review of a decision of the worker's compensation commissioner dated October 8, 2020 in which the commissioner reversed the deputy and concluded that the respondent sustained a work-related traumatic injury to both shoulders on February 24, 2018. The basis for the challenge on judicial review is two-fold: 1) the commissioner's decision was not supported by substantial evidence; and 2) the commissioner misapplied the law to the facts in coming to a conclusion on causation and by ignoring uncontroverted expert testimony.

The appropriate standard of review for this court is governed by Iowa Code §17A.19(10). The determination whether an injury is work-related presents a mixed question of law and fact, in that such a determination requires the commissioner to apply the appropriate legal factors on whether the injury arose out of the employment to the facts as found. Lakeside Casino v. Blue, 743 N.W.2d 169, 173 (Iowa 2007). The level of review undertaken by this court depends upon the type of error claimed to have been committed by the commissioner.

The agency's factual determinations regarding the claimed causal connection would be clearly vested by a provision of law in the discretion of the agency, as it must make such findings to determine any claimant's rights to benefits under chapter 85. Mycogen Seeds v. Sands, 686 N.W.2d 457, 465 (Iowa 2004); Regional Care Hospital Partners, Inc. v. Marrs, 2021 WL 609072 *1 (Iowa Ct.App., Case No. 19-2138, filed February 17, 2021). Accordingly, the reviewing court is bound by the commissioner's findings of fact if supported by substantial evidence in the record before the court when that record is viewed as a whole. Neal v. Annett Holdings, Inc., 814 N.W.2d 512, 518 (Iowa 2012); Iowa Code §17A.19(10)(f) (2021).

Substantial evidence is defined for purposes of the Administrative Procedure Act as "the quantity and quality of evidence 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) (2021). Viewing the record as a whole requires the court to review not only the relevant evidence in the record cited by any party that supports the agency's findings of fact, but also any such evidence cited by any party that detracts from those findings along with any determinations of veracity made by the presiding officer who personally observed the demeanor of the witnesses and the agency's explanation of why the relevant evidence in the record supports its material findings of fact. Iowa Code §17A.19(10)(f)(3) (2021); Acuity Ins. v. Foreman, 684 N.W.2d 212, 216 (Iowa 2004), abrogated on other grounds in Kohlhaas v. Hog Slat, Inc., 777 N.W.2d 387, 391-92 (Iowa 2009).

Substantial evidence is not absent simply because it is possible to draw different conclusions from the same evidence. Id.; see also Riley v. Oscar Mayer Foods Corp., 532 N.W.2d 489, 491-92 (Iowa App. 1995) ("The focus of the judicial inquiry is whether the evidence is sufficient to support the decision made, not whether it is sufficient to support the decision not made."). This would be the appropriate deference afforded to this agency function, as required by Iowa Code §17A.19(11)(c). Mycogen, 686 N.W.2d at 465. Accordingly, the petitioners may not rely upon the argument that their position may be supported by a preponderance of the evidence; rather, the burden is upon them to show that the commissioner's determination is lacking in substantial evidence. Midwest Ambulance Service v. Ruud, 754 N.W.2d 860, 865 (Iowa 2008).

The court on judicial review is required to engage in a "fairly intensive review" of the record to ensure the agency's fact finding was reasonable. Neal, 814 N.W.2d at 525; Univ. of Iowa Hosps. v. Waters, 674 N.W.2d 92, 95 (Iowa 2004). However, courts on judicial review may not engage in a "scrutinizing analysis," or something that would resemble de novo review, as such a standard of review "would tend to undercut the overarching goal of the workers' compensation system." Neal, 814 N.W.2d at 525; Midwest Ambulance, 754 N.W.2d at 866. That purpose has been consistently summarized as follows:

> The fundamental reason for the enactment of this legislation is to avoid litigation, lessen the expense incident thereto, minimize appeals, and afford an efficient and speedy tribunal to determine and award compensation under the terms of this act.
>
> It was the purpose of the legislature to create a tribunal to do rough justice-speedy, summary, informal, untechnical. With this scheme of the legislature we must not interfere; for, if we trench in the slightest degree upon the

> prerogatives of the commission, one encroachment will breed another, until finally simplicity will give way to complexity, and informality to technicality.

Zomer v. West Farms Inc., 666 N.W.2d 130, 133 (Iowa 2003) (quoting Flint v. City of Eldon, 191 Iowa 845, 847, 183 N.W. 344, 345 (1921)); see also Arndt v. City of Le Claire, 728 N.W.2d 389, 394 (Iowa 2007) ("Making a determination as to whether evidence 'trumps' other evidence or whether one piece of evidence is 'qualitatively weaker' than another piece of evidence is not an assessment for the district court or the court of appeals to make when it conducts a substantial evidence review of an agency decision").

On the other hand, the application of the law by the commissioner to its own factual determinations requires a different standard upon judicial review. As the application of law to facts is also vested in the discretion of the agency, it is only to be reversed if found to be irrational, illogical or wholly unjustifiable. Jacobson Transp. Co. v. Harris, 778 N.W.2d 192, 196 (Iowa 2010); Iowa Code §17A.19(10)(m) (2021).

The difference between these varying standards of review was best summarized in this quote from the Iowa Supreme Court:

> Although a claim of insubstantial evidence is usually used to challenge findings of fact, we understand how it can be implicated, as in this case, in a challenge to a legal conclusion. Error occurs when the commissioner makes a legal conclusion based on facts that are inadequate to satisfy the governing legal standards. Yet, a claim of insubstantial evidence to support a legal conclusion does not give rise to the standard of review applicable to the claim of substantial evidence to support the factual findings by the commissioner. When the commissioner takes a piece of evidence and uses it to draw a legal conclusion..., we do not review the conclusion by looking at the record as a whole to see if there was substantial evidence that could have supported the ultimate decision, as argued by IBP in

> this case. Instead, we review the decision made. If the commissioner fails to consider relevant evidence in making a conclusion, fails to make the essential findings to support the legal conclusion, or otherwise commits an error in applying the law to facts, we remand for a new decision unless it can be made as a matter of law.

Meyer v. IBP, Inc., 710 N.W.2d 213, 219-20 n.1 (Iowa 2006). As a result, even if this determines that the commissioner's factual findings are supported by substantial evidence, this is only the beginning of the analysis. If the commissioner's factual findings are upheld, this court must then determine "whether the agency abused its discretion by, for example, employing wholly irrational reasoning or ignoring important and relevant evidence." Id. at 219.

Taking the agency record as a whole, the following facts were available to the commissioner: The respondent was 58 years old at the time of hearing. She began her employment with the petitioner Mercy Medical Center (Mercy) on December 19, 2016. Until that employment was terminated in May of 2019, the respondent was always working as a sterile processing technician. Her typical shift was from 3:00 p.m. to 11:30 p.m. As stated within the general summary of her position contained within the job description, "[t]his position is responsible for inspecting, assembling and wrapping procedure trays, instrument trays, linens, and surgical supplies for sterilization...."

Part of the job required the respondent to load surgical trays onto a shelf for later use in surgery. The respondent testified that these trays could weigh as much as 50 pounds or more. This testimony was disputed by a number of her co-workers (Chester Calambas and Daniel Bench) and her supervisor (Cindy Jennings and Mary Bowlin); all

of these witnesses testified that the trays typically weighed 25 pounds or less.[1] The aforementioned job description did provide that the respondent was required to lift up to 50 pounds occasionally, up to 40 pounds frequently and up to 20 pounds constantly.

Prior to the date in question, the respondent did have a limited history of medical issues regarding her right shoulder.[2] In 2000, she reported pain in her right shoulder, neck and arm. At this time, she denied any specific injury, although she did report that her work at the time involved "quite a bit of pulling and reaching." She obtained an MRI, which was consistent with rotator cuff tendonitis, but not a full thickness tear. It was felt that her work activities were related to and the cause of her symptoms; surgery was not recommended. She returned in March of 2016 with complaints of right shoulder pain, which was assessed as right shoulder impingement. In September of 2017 (after she began working for Mercy), she still had complaints of right shoulder pain, although her primary issue at that time was in the right elbow. She was offered a consultation with a shoulder specialist, but she declined.

On February 24, 2018 (a Saturday[3]), the respondent was working her regular shift at Mercy. She testified that at approximately 6:30 p.m., while placing a tray on the top shelf of a cart (which was over her shoulders), she "felt something." She did not report it at the time, because no one else was on site. She finished her shift that day, as well as a

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[1] These witnesses also disputed the respondent's testimony that her job required her to frequently lift trays above her head and that she lifted 100 trays or more on the shift during which she claims to have been injured.

[2] There is no indication within this record that the respondent had any prior issues regarding her left shoulder.

[3] Both February 24 and 25 have been used as the date of injury throughout this proceeding. It is clear from the record, however, that the claimed onset of any pain or complaints was on a Saturday, which would have been February 24. See Clough v. Robbins, 40 Iowa 325, 326 (1875) ("Courts will judicially take notice of the coincidence of days of the week with days of the month;" court took judicial notice that date notes were executed was on a Sunday). Accordingly, the court will use this date within this ruling as the date of injury.

full shift the following Sunday (February 25). She described the area of her pain as on both the left and right sides, between the base of her neck and the top of her arm. Her initial thought was that the pain would subside on its own.

When it did not, she went to see Dr. Todd Harbach on March 15, 2018. The records from that visit state that the respondent was reporting mild pain bilaterally in her neck, which radiated down her arms to the forearm; the pain was described elsewhere in the record as "about equal cervical and bilateral shoulder pain with radiation down her elbows, but not below." She was felt to have bilateral shoulder impingement syndrome following a positive Neer and Hawkins test. She received injections in both subacromial spaces, which resulted in "100 percent improvement" in both shoulders. She first reported her injury to her employer on March 16, at which time she was referred to MercyOne West Occupational Health on March 19. At that visit, she reported that Dr. Harbach had told her "she tore both rotator cuffs." She was assessed at that time as having sustained a shoulder sprain. She was referred to physical therapy on March 21; at her initial visit, she reported "that she was lifting trays and states that pain started small that day and then increased over the next couple of days. Initially she thought she hurt her neck and later had more shoulder pain." She initially noted improvement in both shoulders, but by May 7, she was reporting more pain in her right shoulder.

An MRI of the right shoulder was performed on May 14. It revealed a small full-thickness rotator cuff tear, with no atrophy of the musculature. When she returned to MercyOne on May 17, she reported that she was continuing to have pain, with more pain in the left shoulder. Because of the findings of a rotator cuff tear on the MRI, she was referred to Dr. Steven Aviles, an orthopedic surgeon. The respondent met with Dr.

Aviles on June 11. His office note from that visit states that the respondent reported that she had developed right shoulder pain after her weekend shift, and that she could not remember "any clear injury." His office note also states that "[s]he incidentally does complain of LEFT shoulder pain." Dr. Aviles was of the opinion that the respondent could benefit from surgery; the discussion was limited to only the right shoulder. The respondent agreed to the surgery, and Dr. Aviles concluded his office note by saying that "I will get this [the surgery] scheduled at her earliest convenience."[4]

Dr. Aviles issued a report to the claims adjuster on July 9, 2018, in which he concluded that the right rotator cuff tear was not work-related. The basis for this opinion was that the respondent could not recall a specific trauma or injury, but rather reported pain as a result of work over the weekend. He attributed the tear reflected on the MRI as having developed chronically over time. As a result of this report, the carrier denied the respondent's claim as not having been caused by her work; this denial was conveyed in a letter dated July 19. In his deposition, Dr. Aviles testified that not only was the respondent's history inconsistent with an acute rotator cuff injury (most notably the gradual onset of symptoms), but also the findings on the MRI that showed no acute bleeding at the site of the tear and indicated the presence of fat cells, veins and arteries that had filled in since the tear. He concluded that the presence of adipose tissue and vasculature was more consistent with a chronic injury that develops over time rather than an acute traumatic injury.[5]

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[4] Dr. Aviles' status report from this visit identified it as a "work comp" visit. He testified that this was not a reflection of whether he had concluded that the injury was work-related, but only that workers' compensation insurance was paying for the visit.

[5] Dr., Aviles reaffirmed these conclusions in a report to petitioners' counsel dated April 29, 2019. He specifically stated, "I want to reaffirm that the type of work activities as described by Norma Lund are not considered a cause for the rotator cuff tear that I had seen on the MRI dated May 2018." Dr. Aviles did supply respondent's counsel with a letter dated September 9, 2019, in which he stated that it was possible

Following the denial of her workers' compensation claim, the respondent consulted with Dr. Jeffrey Davick, another orthopedic surgeon. Her first visit with Dr. Davick was on November 12, 2018. She reported to Dr. Davick that she had been "repetitively putting trays on a shelf above shoulder height and felt a deep pull in her right shoulder." He performed surgery on the right rotator cuff tear on November 29. An MRI was performed on the respondent's left shoulder on March 19, 2019, which also revealed a full-thickness rotator cuff tear; this was repaired surgically by Dr. Davick on April 2. In his operative report, Dr. Davick described the left rotator cuff tear as "traumatic."

Dr. Davick provided respondent's counsel with a report on April 26, 2019. This report was generated after he met with counsel and reviewed a detailed narrative from the respondent's perspective describing her injuries.[6] In the report, Dr. Davick affirmed the following statement regarding causation:

> That the nature of the work performed by Ms. Lund at Mercy Medical Center, and specifically on the date of her injury, as described in the enclosed narrative, as well as the description presented to you by her during your treatment, is consistent with the type of activity resulting in rotator cuff/supraspinatus tears, and therefore is considered a substantial and material causative factor in both the right and left tears, and therefore more probable than not, the cause of both the right and left rotator cuff tears.

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that if the respondent had testified in her deposition that she had lifted 50 pounds repeatedly overhead and at one point felt a pop with new onset pain, such lifting could have caused a rotator cuff tear such as was indicated on the May 14 MRI. The respondent's actual testimony was that she felt a pop in her neck while lifting trays, but that the pain developed gradually in her shoulders over the weekend.

[6] This narrative provided in pertinent part that on the date of the injury, she was doing three times the amount of work as called for on a typical day because her co-worker (Calambas) was not able to assist because of a medical condition. The narrative goes on to state that the respondent began working with the heavier vendor trays around 6:30 p.m. and began placing them on the tops of carts above shoulder height, and that she "felt immediate pain initially in her neck, both sides, and then into the shoulders" while still working on February 24, and that "[h]er shoulder pain worsened during the shift." The narrative suggests that the respondent reported her injury to Mercy sooner than she actually did; it states that she reported her injury to Mercy after working February 27-March 1 (the Tuesday, Wednesday and Thursday after February 24).

This matter came on for hearing before the deputy commissioner on October 31, 2019. The deputy issued her arbitration decision on January 10, 2020. In that decision, she found as follows regarding the respondent's work environment:

> I find that the pans[7] weighed no more than 25 to 27 pounds; that some trays were lifted at or above shoulder height and that while most of the trays lifted at or above shoulder height should have been light, the claimant could have lifted vendor trays and placed them in the uppermost part of the sterile carts, and that she could have handled 100 trays during one shift.

The deputy also went through a detailed recitation of the respondent's interactions with the providers identified above; she ultimately concluded that the respondent had a pre-existing right condition in both shoulders that was worsened by the work she was performing on February 24. In doing so, she analyzed the competing opinions of Drs. Davick and Aviles as follows:

> Dr. Davick, claimant's treating surgeon, opined that claimant's condition was work-related. Defendants might argue that a finding that claimant's condition was not traumatic but still causally related to claimant's work is not consistent based on the medical testimony. Dr. Davick signed off on a statement that identified the claimant's injury as traumatic whereas the undersigned concluded it was cumulative. Moreover, one disagreement does not wholly invalidate the rest of Dr. Davick's opinions. Dr. Davick agreed that the nature of the work performed by claimant was consistent with the type of activity resulting in rotator cuff/supraspinatus tears....
>
> ....
>
> Defendants argue, primarily based on the opinions of Dr. Aviles, that the rotator cuff tears are the result of normal wear and tear. Yet there is nothing in claimant's regular day-to-day life that matches the work she did 8 hours a day, 5 days a week which included lifting of approximately 100

[7] Any reference to "pans" in either the deputy's or commissioner's ruling appears to be consistent with the use of the word "trays" throughout the testimony and record in this case.

> trays between 25 and 27 pounds on a repetitive basis. The regular wear and tear on her shoulders came from her work. That is the common sense conclusion to draw from these facts rather than a presumption that the degeneration in her shoulders and the ultimate full-thickness tears came from regular activities of daily living.
>
> Dr. Aviles' opinions are based on his examination of the claimant that occurred four months after the alleged injury and five months before claimant first saw Dr. Davick. Dr. Davick, however, performed surgery on both claimant's shoulders and has not vacillated in his opinions. While Dr. Aviles did provide a detailed explanation for why there could not have been a traumatic tear, he did not provide a similar reason why there was not a cumulative trauma to the shoulders other than the pans were not greater than 25 pounds and that the majority of rotator cuff tears are caused through regular wear and tear. These are generalizations and not specific applications to the claimant's circumstance.

The deputy's arbitration decision was appealed to the commissioner. In a decision dated October 8, 2020, the commissioner affirmed the deputy's fact findings and conclusion that the respondent's injury was work-related, but reversed her conclusion that the respondent had sustained a cumulative injury. In coming to the conclusion that the respondent's injury was still work-related yet traumatic, the commissioner compared the testimony of both Dr. Aviles and Dr. Davick, while attempting to reconcile the factual disputes within the record:

> It is undisputed that claimant began experiencing symptoms during and after her shift on February 25, 2018. Both at hearing and in her deposition, claimant testified she "felt something"-like a "pop" or a "pull"-in what she believed to be her neck as she was lifting a tray above shoulder height during a busy shift. There is some dispute as to whether claimant told several of her physicians about the "pop" or "pull" sensation, but both Steven Aviles, M.D., and Jeffrey Davick, M.D.,-the competing experts in this case-were aware claimant's symptoms began while performing her work duties which included lifting pans.

> ....
> In contrast to Dr. Aviles' opinion,[8] Dr. Davick opined that the "nature of the work performed" by claimant were "consistent with the type of activity resulting in rotator cuff/supraspinatus tears." Dr. Davick then agreed that claimant's work activity would be considered "a substantial and material causative factor" in claimant's bilateral rotator cuff tears.
>
> I acknowledge Dr. Davick's opinion-like Dr. Aviles' opinion-is not without its flaws. As correctly noted by the deputy commissioner, the narrative contained in Claimant's Exhibit 2 on which Dr. Davick relied, at least in part, varied slightly from the deputy commissioner's findings of fact. Ultimately, however, Dr. Davick's opinion is most consistent with the onset of claimant's symptoms and the fact that claimant was asymptomatic before her shift on February 25, 2018.
> ....
>
> Though both expert's opinions are flawed in some respect, I found Dr. Davick's opinion to be most consistent with claimant's consistent testimony and her work duties. Thus, considering the work claimant was performing on February 25, 2018, along with claimant's lay testimony regarding the onset of her symptoms and Dr. Davick's expert regarding causation, I find claimant satisfied her burden to prove she sustained an injury to her bilateral shoulders on February 25, 2018, that arose out of and in the course of her employment.[9]

A timely petition for judicial review was filed on October 27, 2020. As noted earlier, the issues for review are whether the commissioner's decision was supported by substantial evidence; and whether the commissioner misapplied the law to the facts in coming to his conclusions. The court concludes that while the commissioner's factual

[8] The commissioner concurred with the deputy's criticism of Dr. Aviles' failure to correlate the claimant's work activity with the "wear and tear" he believed was the cause of these injuries, while at the same time conceding that the assumption made by Dr. Aviles on the weight of the trays (as provided by respondent's counsel) was not consistent with the factual findings made by the agency. This inconsistency appears to have been secondary in the commissioner's thought process, "particularly because Dr. Aviles failed to explain why claimant became symptomatic while performing her work activities if these duties did not contribute to, or cause, her condition."

[9] The commissioner's internal references to the record are omitted from this quotation.

findings are supported by substantial evidence and he did not ignore uncontroverted expert testimony, he did adopt an improper standard for causation in incorporating Dr. Davick's statement on that issue.

As to the first two issues, it is clear that the commissioner carefully weighed the hotly disputed factual evidence and came to his own conclusion on what evidence to believe, especially on the specifics of the respondent's work environment. While he ultimately concluded that many aspects of the respondent's testimony was inaccurate (i.e., the weight of the trays and the manner in which they were stacked onto carts), he did find her testimony regarding the mechanism of injury and onset of pain to be consistent, and therefore credible. It is not for this court to reweigh this evidence on judicial review. See Orris v. College Community School Dist., 2018 WL 347549 *2 (Iowa Ct.App., Case No. 17-0742, filed January 10, 2018). The same is true regarding the court's analysis of the competing opinions of Drs. Aviles and Davick—the commissioner did not ignore the "uncontroverted" testimony of Dr. Aviles; he merely found the competing testimony of Dr. Davick to be more compelling. This is at the heart of the role of the commissioner:

> As we have explained, the commissioner, as fact finder, is responsible for determining the weight to be given expert testimony. The commissioner is free to accept or reject an expert's opinion in whole or in part, particularly when relying on a conflicting expert opinion. The courts, in their appellate capacity, are not at liberty to accept contradictory opinions of other experts in order to reject the finding of the commissioner.

Cedar Rapids Community School Dist. v. Pease, 807 N.W.2d 839, 850 (Iowa 2011) (internal citations and quotation marks omitted). However, in accepting Dr. Davick's opinions, the commissioner improperly adopted his flawed approach to causation.

Specifically, Dr. Davick provided an inadequate threshold for medical causation when he concluded that the consistency between the respondent's work activities and a rotator cuff tear was the equivalent ("therefore") of those activities being a substantial, material and probable cause of both tears. This is not consistent with Iowa law.

A claimant must show more than the evidence is consistent with her theory of causation. Doe v. Central Iowa Health System, 766 N.W.2d 787, 792 (Iowa 2009); Henchey v. Dielschneider, 2011 WL 227642 *3 (Iowa Ct.App., Case No. 10-0346, filed January 20, 2011) (directed verdict affirmed). In the absence of evidence showing that the claimed causal connection is probable rather than merely possible, a claimant cannot sustain her burden of proving causation. Sherman v. Pella Corp., 576 N.W.2d 312, 321 (Iowa 1998); Doe, 766 N.W.2d at 793. The flaw in the methodology presented by respondent's counsel to Dr. Davick in the letter dated April 26, 2019 was that it equated consistency with probability: "[T]he nature of the work performed by Ms. Lund at Mercy Medical Center, and specifically on the date of her injury...is consistent with the type of activity resulting in rotator cuff/supraspinatus tears, and **therefore** is considered a substantial and material causative factor in both the right and left tears, and therefore more probable than not, the cause of both the right and left rotator cuff tears." (emphasis added). Dr. Davick was provided no other factual basis upon which to conclude that the respondent's work activities were the cause of her injuries. In the absence of such evidence, Dr. Davick's opinions are insufficient to support the respondent's theory of causation, and the commissioner erred by misapplying the law of medical causation to the facts.[10]

[10] It could also be argued that the flaw in Dr. Davick's report also constituted a lack of substantial evidence. See Doe, 766 N.W.2d at 793 ("[F]or substantial evidence to exist on causation, the plaintiff must show

The respondent failed to sustain her burden of proving that her rotator cuff tears were caused by her work activities. As there is no other disputed evidence on the issue of causation, a remand to the agency for further factfinding is not appropriate. See IBP, Inc. v. Burress, 779 N.W.2d 210, 220 (Iowa 2010); Armstrong v. State of Iowa Bldgs. and Grounds, 382 N.W.2d 161, 165 (Iowa 1986). The agency decision will be reversed, and this matter remanded to the commissioner for the entry of an order of dismissal.

IT IS THEREFORE ORDERED that the decision of the workers' compensation commissioner previously entered in this matter on October 8, 2020 is reversed and remanded for further proceedings as consistent with this ruling. The costs associated with this proceeding are assessed to the respondent.

In addition to all other persons entitled to a copy of this order, the clerk shall provide a copy to the following:

Workers' Compensation Commissioner
1000 E. Grand Ave.
Des Moines, IA 50319-0209
Re: File No. 5066398

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something more than the evidence is consistent with the plaintiff's theory of causation"). In either event, it would be a sufficient ground for reversal of the agency decision.

State of Iowa Courts

Case Number	**Case Title**
CVCV060901	MERCY MEDICAL CENTER ET AL V NORMA LUND
Type:	OTHER ORDER

So Ordered

Michael D. Huppert, District Court Judge,
Fifth Judicial District of Iowa

Electronically signed on 2021-04-01 13:59:41