

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

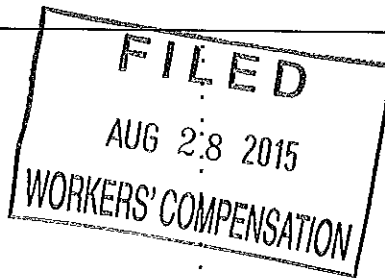
RODGER McLAUGHLIN,

Claimant,

vs.

JOHN DEERE DES MOINES WORKS,

Employer,  
Self-Insured,  
Defendants.



File No. 5048714

ARBITRATION

DECISION

Head Note No.: 1100; 1803

STATEMENT OF THE CASE

Claimant, Rodger McLaughlin has filed a petition in arbitration and seeks workers' compensation benefits from John Deere Des Moines Works, employer, self-insured defendant.

This matter was heard by Deputy Worker's Compensation Commissioner Ron Pohlman on April 23, 2015 at Des Moines, Iowa. The record in the case consists of claimant's exhibits 1 through 3; defendants' exhibits A through S, as well as the testimony of the claimant.

ISSUES

The parties submitted the following issues for determination:

1. Whether the claimant sustained an injury on April 21, 2014, which arose out of and in the course of his employment;
2. Whether the injury was the cause of any disability;
3. Whether the claimant is entitled to temporary total disability/healing period benefits from May 6, 2014 through June 1, 2014;
4. The extent of claimant's entitlement to permanent partial disability benefits pursuant to Iowa Code section 85.34(2)(u);
5. Whether the claimant is entitled to payment of medical expenses pursuant to Iowa Code section 85.27; and

6. Whether the claimant is entitled to reimbursement from an independent medical examination pursuant to Iowa Code section 85.39.

#### FINDINGS OF FACT

The undersigned having considered all of the testimony and evidence in the record finds:

Claimant, at the time of the hearing, was 53 years old. The claimant did not graduate high school but has obtained a GED. His work history consists of unskilled and semi-skilled work. The claimant began working at John Deere as a welder in 2010. The claimant alleges an injury on April 21, 2014 to his left arm and shoulder. The claimant's independent medical evaluator, Jacqueline Stoken, D.O., outlined the history of this injury in her report:

History of Present Illness: Mr. McLaughlin is a 54-year-old white male who was injured in the course of employment on 4/21/14 injuring his left arm and shoulder.

He states that he worked at John Deere as a welder. He states they were putting together a new department. He was having to lift and carry square tubes that were about 6 foot long. He states he does not know how much they weighed but they were heavy. He would put them on his shoulder and carry them to their destination. He states that his left arm kept swelling for about 2-3 months. He thought he had carpal tunnel syndrome. He did report it to his supervisor.

He was sent to the on-site clinic where he was evaluated and told to go the family practitioner. He states his left hand was turning purple. He then went to Mercy Hospital where he was evaluated and was told he had carpal tunnel syndrome.

He states that he still had problems. He went to his family practitioner who discovered he had no pulse on his left hand. He was sent to Dr. Fry who evaluated him. He was immediately sent to Iowa Methodist Medical Center where he underwent surgery for blood clots in the left upper extremity. He states that the same time he had left lower extremity pain in the left calf. He states an ultrasound that was done did not show a clot.

He was sent to physical therapy for about 3 weeks. He continues to have pain in the left shoulder and arm. . . .

(Ex. 1, pp. 1-2)

The claimant's primary care physician discovered that the claimant had no pulse in his hand so the claimant was referred to the Iowa Clinic and then eventually sent to Iowa Methodist Medical Center where he underwent surgery for blood clots in his left

upper extremity. On May 7, 2014, John Stern, M.D., performed a left arm arteriogram. His postoperative diagnosis was left brachial artery embolus. On May 8, 2014, the claimant underwent a left brachial embolectomy with a brachial angiogram that was performed by Dr. Stern and Wade Stinson, M.D. The claimant underwent physical therapy for three weeks after those surgeries.

Dr. Stern noted on May 15, 2014 that the etiology of the embolus was a small left subclavian aneurysm.

On June 4, 2014, the claimant returned to full duty for his employer although he still experiences pain daily as he performs his job. The claimant sought his independent medical evaluation with Dr. Stoken on March 26, 2015. Dr. Stoken's diagnosis:

IMPRESSION:

1. Status post work injury on 4/21/14 with embolism and thrombosis of ulnar artery; aneurysm of the subclavian artery.
2. Status post left brachial embolectomy with brachial angiogram on 5/08/14 done by Dr. Wade Stinson and Dr. John Stern. Post operative diagnosis is left brachial artery embolus.
3. Superficial venous thrombosis, left calf.
4. Longterm anticoagulation for thrombosis.
5. Left shoulder bursitis and chronic pain of the left upper extremity.

(Ex. 1, p. 10)

Dr. Stoken opines that those diagnoses were substantially aggravated or materially worsened by the claimant's work at the employer and that the claimant would need future care including physician management of his anticoagulation as directed by his vascular surgeon. She placed the claimant at maximum medical improvement (MMI) on June 1, 2014 and opined the claimant had sustained a 17 percent permanent impairment of the whole person due to range of motion deficits caused by scarring and shoulder bursitis and the thrombotic disorder. See Exhibit 1, page 11.

For restrictions, she recommended that the claimant avoid repetitive work at or above the shoulder level and keep hydrated. In her deposition, Dr. Stoken was asked about whether the subclavian aneurysm was caused by anything that had happened at work and she indicated that she did not know and acknowledged that most subclavian aneurysms are not work related. See Exhibit T, pages 5-6.

The defendants obtained a medical evaluation from the claimant's records from Alan Koslow, M.D., on March 17, 2015. Dr. Koslow opined that subclavian aneurysm develop because either an anatomical anomaly, penetrating injury, or underlying

connective tissue disease and that there was no evidence presented to him that the claimant was engaged in any work-related activities that would have caused him to develop the aneurysm or lead to an embolization from that. See Defendants Exhibit K, page 3. Dr. Koslow opines that the cause of the claimant's complaints stem from a pre-existing subclavian aneurysm and the resulting embolization from it.

The claimant had an independent medical evaluation (IME) at the defendants request with Scott Neff, D.O., on April 7, 2015. Dr. Neff also reviewed the reports of Dr. Koslow and Dr. Stoken. With respect to causation, Dr. Neff concluded:

Question #1. In my opinion the medical evidence does not support that Mr. McLaughlin has had an injury to his left arm or shoulder as a result of his work duties at John Deere Des Moines Works. He states that he does most of his work with his right arm because he is right handed. There was no specific injury to the left shoulder or arm. He has not worked with intensive vibrating tools, impact tools, or intense grip or pinch with the left arm. In my opinion, he does not have findings consistent with left carpal tunnel syndrome.

Question #2. Mr. McLaughlin has had a thromboembolic phenomenon in the left subclavian/brachial artery complex. This started slowly and gradually progressed to the point of progressive symptoms. A thromboembolic phenomenon in the subclavian artery can be the result of penetrating trauma (which he did not have), congenital or developmental vascular disease, plaque formation, or anatomic variant. In addition, vessel problems can occur as a result of thoracic outlet syndrome.

(Ex. L, p. 4)

Dr. Neff opined the claimant had no permanent impairment.

#### REASONING AND CONCLUSIONS OF LAW

The first issue in this case is whether the claimant sustained an injury that arose out of and in the course of his employment. This issue is largely one of medical causation.

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 alleged injury actually occurred and that it both arose out of and in the course of the employment. Quaker Oats Co. v. Ciha, 552 N.W.2d 143 (Iowa 1996); Miedema v. Dial Corp., 551 N.W.2d 309 (Iowa 1996). The words "arising out of" referred to the cause or source of the injury. The words "in the course of" refer to the time, place, and circumstances of the injury. 2800 Corp. v. Fernandez, 528 N.W.2d 124 (Iowa 1995). An injury arises out of the employment when a causal relationship exists between the

injury and the employment. Miedema, 551 N.W.2d 309. The injury must be a rational consequence of a hazard connected with the employment and not merely incidental to the employment. Koehler Electric v. Wills, 608 N.W.2d 1 (Iowa 2000); Miedema, 551 N.W.2d 309. An injury occurs "in the course of" employment when it happens within a period of employment at a place where the employee reasonably may be when performing employment duties and while the employee is fulfilling those duties or doing an activity incidental to them. Ciha, 552 N.W.2d 143.

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).

The claimant argues that he was asymptomatic before he started performing the job duties that required him to carry the square tubes on his shoulder and that it was after this activity that he developed the vascular condition that ultimately required surgery. Dr. Stoken's opinion indicates that these vascular conditions were work related based upon the claimant's descriptions of his job activities, but even her own deposition testimony acknowledges that she does not know what causes these types of aneurysms. The other experts do not support the claimant's theory in this case. The claimant has not established that he sustained a work-related injury to his left upper extremity and shoulder. As the claimant has failed to establish that he sustained an injury that arose out of and in the course of his employment, the other issues in this file are moot.

ORDER

THEREFORE, IT IS ORDERED:

Claimant shall take nothing from this file.

Costs of this action are taxed to the claimant pursuant to rule 876 IAC 4.33.

Signed and filed this 28<sup>th</sup> day of August, 2015.



RON POHLMAN  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

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RRP/kjw

**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.