

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRENT LANGE,

Claimant,

vs.

C.R. ENGLAND,

Employer,

and

INDEMNITY INS. CO. OF N. AMERICA,

Insurance Carrier,
Defendants.

File No. 20700102.01

ARBITRATION DECISION

Headnote: 1100

STATEMENT OF THE CASE

Brent Lange seeks workers' compensation benefits from the defendants, employer C.R. England and insurance carrier Indemnity Insurance Company of North America (Indemnity), for an alleged injury to the body as a whole. The undersigned presided over an arbitration hearing on January 12, 2021. Lange participated personally and through attorney Nate Willems. The defendants participated by and through Sara Kruser, representative of C.R. England, and attorney Christine Westberg Dorn.

ISSUES

Under rule 876 IAC 4.19(3)(f), the parties jointly submitted a hearing report defining the claims, defenses, and issues submitted to the presiding deputy commissioner. The hearing report was approved and entered into the record via an order because it is a correct representation of the disputed issues and stipulations in this case. The parties identified the following disputed issues in the hearing report:

- 1) Did Lange sustain an injury arising out of and in the course of his employment with C.R. England on July 15, 2019?
- 2) Did Lange provide timely notice of the alleged injury?
- 3) Is Lange entitled to temporary partial disability (TPD) benefits from September 22, 2019, through January 11, 2020?

- 4) Is Lange entitled to healing period (HP) benefits for the following time periods:
 - a) July 26, 2019, through September 21, 2019; and
 - b) January 12, 2020, through October 15, 2020?
- 5) Is Lange entitled to permanent partial disability (PPD) benefits for an industrial disability caused by the alleged injury?
- 6) What is the commencement date for permanent partial disability (PPD) benefits, if any are awarded?
- 7) What were Lange's gross earnings at the time in question?
- 8) Is Lange entitled to alternate care under Iowa Code section 85.27?
- 9) Must the defendants reimburse Lange for the medical expenses itemized in Claimant's Exhibits 6 and 7?
- 10) Is Lange entitled to a penalty under Iowa Code section 86.13?
- 11) Are costs taxed against the defendants under Iowa Code section 86.40?

STIPULATIONS

In the hearing report, the parties entered into the following stipulations:

- 1) An employer-employee relationship existed between Lange and C.R. England at the time of the alleged work injury.
- 2) At the time of the stipulated injury:
 - a) Lange was single.
 - b) Lange was entitled to one exemption.
- 3) Although disputed, the medical providers would testify as to the reasonableness of their fees and/or treatment set forth in the listed expenses and the defendants are not offering contrary evidence.

The parties' stipulations in the hearing report are accepted and incorporated into this arbitration decision. The parties are bound by their stipulations. This decision contains no discussion of any factual or legal issues relative to the parties' stipulations except as necessary for clarity.

FINDINGS OF FACTS

The evidentiary record in this case consists of the following:

- Joint Exhibits (Jt. Ex.) 1 through 5;
- Claimant's Exhibits (Cl. Ex.) 1 through 10;
- Defendants' Exhibits (Def. Ex.) A through G; and
- Hearing testimony by Lange and Kruser.

After careful consideration of the evidence and the parties' post-hearing briefs, the undersigned enters the following findings of fact.

Lange was 27 years old at the time of hearing. (Hrg. Tr. p. 12–13) He was born with a congenital heart defect called truncus arteriosus, which means he has one artery going to his heart. (Hrg. Tr. p. 13–14) Lange has also had scoliosis for his whole life. (Hrg. Tr. p. 14) These conditions have made him eligible since birth for disability benefits from the federal Social Security Administration (SSA). (Hrg. Tr. p. 14)

Mark Zittergruen, M.D., has been Lange's treating cardiologist since 1998. (Hrg. Tr. p. 16) Dr. Zittergruen advised him to avoid playing tackle football. (Hrg. Tr. p. 17) Lange has undergone three heart catheterizations (2002, 2013, and 2015), a conduit placement in 1994, and conduit revisions in 1996 and 2003. (Jt. Ex. 3, p. 7; Jt. Ex. 4, p. 2) Lange's most recent procedure was in 2015, when he required surgery to install a transcatheter pulmonary valve, which went well. (Jt. Ex. 3, pp. 1–2, 50) No doctor prescribed Lange work restrictions or medication due to his heart condition before he started work with C.R. England. (Hrg. Tr. p. 17)

Dr. Zittergruen saw Lange for his annual exam on March 8, 2018. (Jt. Ex. 3, pp. 3–4) Dr. Zittergruen noted Lange "appear[ed] to have had a very nice outcome from his Melody valve placement. The right side of his heart appears as good as I have ever seen it. We will continue to monitor this yearly." (Jt. Ex. 3, p. 4)

However, Dr. Zittergruen also noted Lange had a dilated left ventricle and ascending aorta. (Jt. Ex. 3, p. 4) While asymptomatic, Dr. Zittergruen advised Lange to "continue to self limit his activity as needed with no specific restrictions." (Jt. Ex. 3, p. 4) They agreed Lange would return in one year for his annual check-up to monitor his progress. (Jt. Ex. 3, p. 4)

Lange graduated from high school and went to college where he earned his Bachelor of Science degree in equestrian general studies with a minor in music. (Hrg. Tr. pp. 14–15; Jt. Ex. 3, p. 2; Def. Ex. G, p. 3) However, Lange did not obtain full-time employment in his fields of study. (Hrg. Tr. p. 15–16) After graduating from college, Lange worked in the kitchen at Hy-Vee. (Hrg. Tr. p. 15)

In 2019, Lange set out to obtain his commercial driver's license (CDL). (Hrg. Tr. p. 16) First, Lange obtained his permit. (Hrg. Tr. p. 16) The CDL process is regulated by the state and federal departments of transportation. See 49 CFR pts. 383, 384; see also 761 IAC 607. It includes a requirement that a would-be CDL driver pass a physical.

(Hrg. Tr. p. 18; Jt. Ex. 2) Because Lange passed his physical, he obtained his CDL in March. (Hrg. Tr. p. 1820)

Lange applied for a job at C.R. England on January 7, 2019. (Jt. Ex. 1, p. 3) He worked for the company with his CDL learner's permit beginning in February. After Lange obtained his CDL in March, he began to work for the company as an over-the-road truck driver. (Hrg. Tr. p. 20)

C.R. England closely monitors its drivers' activities in accordance with safety requirements for interstate trucking under federal law. The parties submitted C.R. England's logs of Lange's activities while driving for the company in Joint Exhibit 1. Lange gave credible testimony on the meaning of some of the terms used in the logs:

- "Off duty" refers to the time a driver is out of the truck (e.g., to get a meal, while at home, in a hotel, or during a repair to the vehicle); and
- "Sleeper, on duty" refers to driving time while the driver is in the cab of the truck, but not driving. (Hrg. Tr. p. 19)

Thus, Lange's time as a truck driver for C.R. England can be accurately broken down into two larger classifications: in-truck time and off-duty time, when he was not in the truck. (Hrg. Tr. p. 19; Jt. Ex. 1, pp. 4–45; Cl. Ex. 8) The weight of the evidence establishes that, as one part of a two-driver tandem, Lange often spent extended periods of time in the cab of the truck he was helping to drive in tandem with another driver.

There is some question of when and where Lange noticed his onset of swelling. (Def. Ex. G, p. 12; Hrg. Tr. pp. 62–63) However, it is undisputed Lange began to experience swelling in July of 2019. Lange experienced the onset of swelling in his feet, ankles, and legs. (Hrg. Tr. p. 23) Ultimately, the swelling spread to his torso, arms, and face. (Hrg. Tr. p. 23) Lange also experienced shortness of breath. (Hrg. Tr. p. 24) He felt something was different with his heart. (Hrg. Tr. p. 24) Lange had never experienced these symptoms before. (Hrg. Tr. p. 24) He felt he needed to see a doctor because he felt something serious might be wrong. (Hrg. Tr. pp. 24–25)

On July 10, 2019, Lange submitted two weeks' notice of his resignation to C.R. England on the company's messaging platform because of another employee's attitude and "needing a break from [over-the-road trucking] for a while to get health tak[en] care of." (Def. Ex. A, p. 1) Lange clarified at hearing the primary reason was his health. (Hrg. Tr. p. 66) He also stated he "need[ed] a break to catch up on [his] health and everything else." (Def. Ex. A, p. 1) Lange informed C.R. England he intended to continue driving commercially and hoped to do so in a more regional capacity. (Def. Ex. A, p. 1)

Lange sent another message on July 14, 2019, in which he stated he needed to get back to Iowa because his home time was scheduled to start that day and he had to see Dr. Zittergruen "for a yearly check-up on [his] congenital heart defect." (Def. Ex. A, p. 2) Later that same day, Lange and his driving partner reiterated they needed to go

home. (Def. Ex. A, p. 3) On July 15, 2019, Lange sent a message stating he needed to get home that day or the next morning because of his “health check-up.” (Def. Ex. A, p. 4) Lange did not indicate in the messages that he needed to see a doctor because of a health condition or injury he believed was related to his work at C.R. England. (Def. Ex. A, pp. 1–4)

Lange asserted in his interrogatory answers he informed a C.R. England employee named Derek Rompi that he “had a heart issue” and “needed [to go] home for a heart appointment.” (Def. Ex. G, p. 8) However, Lange did not assert that he informed Rompi he felt working for C.R. England caused an injury relating to his heart and the need for the appointment. At hearing, Lange testified both that he informed and did not inform Rompi of the swelling in his legs. (Hrg. Tr. pp. 42, 77) Regardless, Kruser credibly testified nobody named Derek Rompi worked for the company at the time in question. (Hrg. Tr. pp. 87–88) There is an insufficient basis in the evidence from which to conclude Lange told a manager at C.R. England he believed the swelling he experienced in July was caused by his work.

Lange’s last day working for C.R. England was July 24, 2019. (Jt. Ex. 1, p. 47) There is an insufficient basis in the evidence from which to conclude a doctor assigned him any work restrictions before he gave his resignation. (Def. Ex. D, p. 2; Hrg. Tr. pp. 54–55) There is no indication in the record Lange requested any accommodations from C.R. England before his resignation took effect.

Manager Troy Dessert completed a termination evaluation regarding the end of Lange’s employment with C.R. England. (Jt. Ex. 1, p. 47) Dessert rated Lange a satisfactory worker who was dependable and hardworking. (Jt. Ex. 1, p. 47) Based on the form, Lange was eligible for rehire with C.R. England. (Jt. Ex. 1, p. 47) Dessert identified Lange’s reason for resigning as he “had to be home more.” (Jt. Ex. 1, p. 47) There is an insufficient basis in the record from which to conclude Lange notified Dessert that he believed he sustained a work injury.

On August 1, 2019, Lange saw Dr. Zittergruen, who noted his symptoms as follows:

[Lange] returns to pediatric cardiology clinic for urgent evaluation. He reports that over the past several weeks he has had increasing swelling of his legs and discomfort of his knees. He notes that for the past 6 months he has been driving commercial trucks across the United States. He reports that he often drives for 8 to 10 hours at a time with only minimal breaks to use the restroom. He notes that due to his work and schedule he has not been eating very healthy. He notes that most of his meals over the past 6 months have come from fast food restaurants or truck stops. He has also been drinking quite a bit of Coke Zero or lemonade. He notes that the swelling has gotten to the point where his socks leave a significant impression around his ankles. His knee has been swollen and difficult/painful to bend. He reports no dyspnea. He has had some occasional sharp chest discomfort which is random and often occurs when

he is sitting. He reports no palpitations or inappropriate tachycardia. He has had no dizziness or syncope.

(Jt. Ex. 3, p. 5)

Based on Dr. Zittergruen's examination and an echocardiogram, he diagnosed Lange with decreased cardiac function with lower extremity edema. (Jt. Ex. 3, p. 8) He noted:

I do think his LV function has been at the low end of normal for quite some time. It does appear worse on today's echocardiogram than it has in the past. Fortunately, he is hemodynamically stable with no tachycardia or tachypnea. His edema appears to be limited to his lower extremities. I do think [Lange]'s symptoms and decreasing cardiac function are likely related to his recent occupation of truck driving. This was discussed at length with [Lange]. In addition to long periods of inactivity with his legs being dependent, his nutritional status appears to be problematic. He has gained significant weight since I last saw him. According to our scale he has gained 26 pounds over the past year. I do think some of this weight gain is fluid, but I also think he appears heavier overall. [Lange] is aware that this increase in weight is problematic for his heart.

(Jt. Ex. 3, p. 8)

Dr. Zittergruen prescribed Lasix to address the swelling. (Jt. Ex. 3, p. 8) He encouraged Lange to improve his diet and remain as physically active as possible. (Jt. Ex. 3, pp. 8–9)

Lange testified during his deposition in this case that he mailed a certified letter, return receipt requested, to C.R. England's human resources department to notify them of his work injury following his appointment with Dr. Zittergruen. (Cl. Ex. 3, p. 8) However, Lange conceded he did not keep a copy of the letter for his records or the receipt. (Cl. Ex. 3, p. 9, Depo pp. 29–30; Hrg. Tr. pp. 64–65)

At hearing, Kruser credibly testified any such letter from Lange would have been routed to her as the senior workers' compensation supervisor at C.R. England, but she never received any such letter. (Hrg. Tr. pp. 82–83) Kruser further testified the first letter she received regarding Lange's alleged work injury was the letter of representation from Lange's counsel in February of 2020. (Hrg. Tr. p. 82) There is an insufficient basis in the evidence from which to conclude C.R. England received a certified letter from Lange regarding his alleged work injury.

The weight of the evidence establishes Lange did not personally inform C.R. England he believed the swelling he experienced on the job was an injury caused by his employment. Lange informed C.R. England he had a heart condition and had to attend a doctor's appointment relating to his heart. He also told them he was quitting for personal reasons but did not expressly inform the company he was quitting due to a

condition that was causing swelling and he believed was related to his work. The letter of representation Lange's attorney sent C.R. England in February of 2020 is the first notice he provided of his belief that he sustained an injury arising out of and in the course of his employment with the company.

Lange followed up with Dr. Zittergruen on August 5, 2019, reporting that he felt better, and his swelling had improved. (Jt. Ex. 3, p. 11) Dr. Zittergruen noted he lost six pounds since his last appointment. (Jt. Ex. 3, p. 13) On August 23, 2019, Lange returned for another follow-up appointment. (Jt. Ex. 3, p. 15) His swelling continued to go down. (Jt. Ex. 3, p. 19) Dr. Zittergruen noted, "His echocardiogram demonstrates minimal improvement in his overall function." (Jt. Ex. 3, p. 19) He also discussed with Lange that "truck driving was perhaps not the best vocation for him. I do not think that sitting for long periods of time are in his best interest." (Jt. Ex. 3, p. 19) In accordance with Dr. Zittergruen's opinion, Lange informed him he will try to find a truck-driving job with shorter routes. (Jt. Ex. 3, p. 19)

Lange got another job as a truck driver with Stutsman in Hills, Iowa. (Def. Ex. D, p. 5; Hrg. Tr. p. 28) Stutsman allowed Lange to pick what distance he would drive when making a delivery. (Hrg. Tr. p. 28) This allowed Lange to drive a truck within the time constraints Dr. Zittergruen placed on sitting. (Hrg. Tr. p. 28)

Lange saw Dr. Zittergruen again on October 15, 2019. (Jt. Ex. 3, p. 20) Dr. Zittergruen opined, "his heart failure symptomatology has improved significantly on his current medical regimen. His BNP has decreased and he remains metabolically stable. His echocardiographic images also look more like his baseline with mildly decreased LV systolic function." (Jt. Ex. 3, p. 22) With respect to Lange's truck-driving work, Dr. Zittergruen noted:

[Lange] has returned to driving a truck with some modifications of his schedule and time spent behind the wheel without taking a break. I do think he can continue to do this from a cardiac standpoint. We will monitor him closely as he undertakes this to make sure that his heart failure symptomatology does not worsen.

(Jt. Ex. 3, p. 22) Dr. Zittergruen opined, "I do think [Lange] can continue to drive a truck as long as he is able to modify his schedule and take breaks from driving every 2–3 hours." (Jt. Ex. 3, p. 23)

On December 19, 2019, Lange had another follow-up appointment with Dr. Zittergruen. (Jt. Ex. 3, p. 24) He reported no leg swelling. (Jt. Ex. 3, p. 24) Lange weighed 209 pounds. (Jt. Ex. 3, p. 26) Dr. Zittergruen noted:

He returned to work as a truck driver with a different company than previously. He reports that he is not required to drive long distances without stopping for break. He assures me that he takes a break every 2–3 hours to walk around and use the restroom. He has been eating [a]

healthier diet with less junk food and fried food. He has also cut back on his salt intake.

(Jt. Ex. 3, p. 24) Dr. Zittergruen repeated his opinion that Lange could physically continue to drive a truck so long as he does not sit longer than two to three hours without taking time to move. (Jt. Ex. 3, pp. 24, 27–28)

In order to maintain a CDL, a driver must undergo periodic physicals. (Cl. Ex. 3, p. 3, Depo. Tr. pp. 7–8) Because of Lange’s congenital heart defect, he had to undergo an annual physical as opposed to a biannual physical. (Cl. Ex. 3, p. 3, Depo. Tr. pp. 7–8) Lange also had to provide medical history as part of the recertification process. (Cl. Ex. 3, p. 3, Depo. Tr. p. 10)

Records from a DOT physical are not in evidence. At hearing, Lange testified, “when I went to go get a DOT physical, they wouldn’t pass me due to too much dilation and . . . my percentage of blood flow going in and out of the heart.” (Hrg. Tr. p. 34) During his deposition testimony, Lange explained that his heart was pumping blood below the 40 percent threshold required for DOT certification. (Cl. Ex. 3, p. 3, Depo. Tr. p. 10) Lange tried a second time, according to his hearing testimony, but he was again denied because his dilation was over that allowed by DOT regulations. (Hrg. Tr. p. 35) On January 9, 2020, the State of Iowa Department of Transportation (IDOT) downgraded Lange’s CDL because he did not self-certify to the type of driving he was doing or did not submit a current Medical Examiner’s Certificate to IDOT. (Jt. Ex. 5, p. 2) Stutsman discharged Lange because of his CDL downgrade. (Hrg. Tr. p. 34)

On February 18, 2020, Lange saw Dr. Zittergruen due to gastrointestinal bloating and shortness of breath. (Jt. Ex. 3, p. 29) Dr. Zittergruen found him stable on examination, noting his diagnostic tests had not changed much. (Jt. Ex. 3, p. 34) Lange returned on March 23, 2020, and Dr. Zittergruen observed a heart murmur and discussed Lange’s forthcoming cardiac catheterization, which would be helpful to look at his intracardiac hemodynamics and pulmonary valve. (Jt. Ex. 3, p. 40) The procedure revealed no significant concerns. (Jt. Ex. 3, p. 47) From September 30, 2020, through October 8, 2020, Lange was hospitalized with a bacterial infection unrelated to the injury at the center of this case. (Hrg. Tr. p. 33, Jt. Ex. 3, p. 49)

Paul Conte, M.D., performed a review of Lange’s medical records from March 2018 through May 2020. (Def. Ex. B) Dr. Conte answered questions posed by defense counsel after completing his records review. (Def. Ex. B) In response to a question on whether Lange’s truck-driving at C.R. England for six months caused the swelling and decreased heart function observed on August 1, 2019, Dr. Conte opined:

I do not agree with Dr. Zittergruen that Mr. Lange’s symptoms and decreased cardiac function are related to his brief period of time as an over-the-road truck driver for C.R. England. Mr. Lange has a complicated pediatric congenital heart condition that has been treated by multiple surgical procedures and repeat operations and interventions. He had the initial surgery, then he had the revision of the pulmonary artery outflow

tract, then he had a replacement of the pulmonary valve within the conduit as well as stenting of the conduit. He still remains with significant dilatation of his truncal aorta and truncal insufficiency to some degree as well as probable pulmonary outflow tract valve insufficiency. This is manifested in the dilatation of his left ventricle to the point of being consistent with congestive heart failure when he was first seen on 3/8/2019, prior to truck driving. Despite multiple medications, he still remains with a dilated left ventricle and has symptoms of compensated congestive heart failure. This is not uncommon for pediatric congenital cardiac defect survivors who progress on to adulthood, as a repair of this congenital heart defect is essentially not returning him to normal function but palliating and repairing it as best able. Many of these patients go on to need cardiac transplantation later in life due to congestive heart failure symptoms. Complicating this matter is the coexisting, significant health problems that Mr. Lange has. Even with improvement of his lower extremity edema he still, by body mass index, meets criteria for morbid obesity as well as he has a poor diet and hypercholesterolemia. A brief period of time operating a truck would not be enough to worsen his congestive heart failure, and is more likely due to the natural history of the disease. Furthermore his treatment with drugs for high blood pressure were actually to treat his heart failure as they help lower the pumping work of a dysfunctional heart and is standard treatment for congestive heart failure.

(Def. Ex. B, pp. 3–4)

On December 11, 2020, Lange’s attorney sent Dr. Zittergruen a check-box letter with a series of questions, spaces by which to indicate “Yes” or “No” in response to the questions, and space for additional information. (Cl. Ex. 5, pp. 1–2) Question 1 states, “From August 1, 2019 when you diagnosed increased symptoms and decreased cardiac function, has [Lange] recovered to his pre-truck driving (prior to February 2019) baseline symptomology and cardiac function?” (Cl. Ex. 5, p. 2) In response, Dr. Zittergruen indicates “Yes,” while “on medication.” (Cl. Ex. 5, p. 2)

Dr. Zittergruen indicated the work restriction he assigned of taking breaks from driving every two to three hours were permanent. (Cl. Ex. 5, p. 2) Because of Lange’s 2019 increase in symptoms and decreasing cardiac function, Dr. Zittergruen assigned additional permanent work restrictions of no heavy lifting. (Cl. Ex. 5, p. 2) He stated Lange needed to frequently follow up for monitoring of his condition, adjustment of medications as needed, and because of the possibility for future surgery. (Cl. Ex. 5, p. 2)

CONCLUSIONS OF LAW

In 2017, the Iowa legislature amended the Iowa Workers’ Compensation Act. See 2017 Iowa Acts, ch. 23. The 2017 amendments apply to cases in which the date of an alleged injury is on or after July 1, 2017. *Id.* at § 24(1); see also Iowa Code § 3.7(1). Because the injury at issue in this case occurred after July 1, 2017, the Iowa Workers’

Compensation Act, as amended in 2017, applies. Smidt v. JKB Restaurants, LC, File No. 5067766 (App. Dec. 11, 2020).

An employer covered by the Iowa Workers' Compensation Act must "provide, secure, and pay compensation according to the provisions of this chapter for any and all personal injuries sustained by an employee arising out of and in the course of the employment, and in such cases, the employer shall be relieved from other liability for recovery of damages or other compensation for such personal injury." Iowa Code § 85.3(1). "A claimant must prove by a preponderance of the evidence that an alleged injury for which the claimant is seeking workers' compensation benefits arose out of and in the course of employment." St. Luke's Hosp. v. Gray, 604 N.W.2d 646, 652 (Iowa 2000) (citing Quaker Oats Co. v. Cihra, 552 N.W.2d 143, 150 (Iowa 1996)). Establishing a mere possibility is not enough to satisfy this burden; a claimant must show it is more likely than not the alleged injury is related to the claimant's employment. See id.

"An injury 'arises out of' employment if there is a causal connection between the employment and the injury." Id. at 652 (citing Bailey v. Batchelder, 576 N.W.2d 334, 338 (Iowa 1998)). The Iowa Supreme Court has articulated a two-prong analysis for gauging causation under the Iowa Workers' Compensation Act: (1) factual or medical causation; and (2) legal causation. City of Cedar Rapids v. Bd. of Trustees of Mun. Fire & Police Retirement Sys. of Iowa, 572 N.W.2d 919, 922 (Iowa 1998). Here, the parties' dispute factual or medical causation.

"Whether an injury has a direct causal connection with the employment or arose independently thereof is essentially within the domain of expert testimony." IBP, Inc. v. Harpole, 621 N.W.2d 410, (Iowa 2001) (quoting Dunlavey v. Econ. Fire & Cas. Co., 526 N.W.2d 845, 853 (Iowa 1995)). The weight given an expert's opinion "may be affected by the completeness of the premise given the expert and other surrounding circumstances." Dunlavey, 526 N.W.2d at 853. The agency must weigh the evidence in a case and accept or reject an expert opinion based on the entire record. Id. For example, "When an expert's opinion is based upon an incomplete history, the opinion is not necessarily binding upon the [agency]." Id. The agency may accept or reject an expert opinion in whole or in part.

Dr. Zittergruen stated that extended periods sitting down while in the cab of the truck caused Lange's decreased heart function and swelling. But he did not explain why or how with specificity. Further, in response to the check-box letter sent by Lange's attorney, Dr. Zittergruen indicated Lange had returned to his March 2018 baseline heart function with medication. But if this is true, Lange could have passed his DOT physical and continued driving a truck. The evidence shows Lange could not pass his DOT physical because of reduced heart function. Thus, despite Dr. Zittergruen's extensive knowledge of Lange's health due to decades as his treating cardiologist, his opinion is given less weight.

In contrast to Dr. Zittergruen's opinion, Dr. Conte broke down in detail the basis for his conclusion Lange's work as a truck driver with C.R. England was not the most likely cause of his symptoms in the summer of 2019. Dr. Conte credibly explains why he

believes the most likely cause is the combination of Lange's complicated pediatric heart condition, ongoing congestive heart failure, and weight. The reasoning on which Dr. Conte's opinion is based is more persuasive than that of Dr. Zittergruen's opinion. This decision therefore adopts Dr. Conte's opinion on causation.


Lange has failed to meet his burden of proof on the issue of causation. There is an insufficient basis in the evidence from which to conclude Lange's employment with C.R. England caused the symptoms and decreased heart function he experienced on the job. Because Lange did not meet his burden of proof on causation, this decision does not address the other disputed issues.

ORDER

Based on the above findings of fact and conclusions of law, it is ordered:

- 1) The claimant shall take nothing from this case.
- 2) The parties shall be responsible for paying their own hearing costs. Each party shall pay an equal share of the cost of the transcript.

Signed and filed this 1st day of February, 2022.


BENJAMIN G. HUMPHREY
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Nate Willems (via WCES)

Tami Fleek (via WCES)

Christine Westberg Dorn (via WCES)

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 filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation 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 legal holiday.