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WORKERS' COMPENSATION: COMPENSABILITY OF PREEXISTING CONDITIONS
AGGRAVATED BY OCCUPATIONAL DISEASES

Summary

City of Henderson Police Officer Jared Spangler sought workers' compensation benefits, alleging that workplace conditions aggravated his significant loss of hearing. Multiple medical experts opined that Spangler's hearing loss likely preexisted his employment, but that the workplace conditions increased his symptoms. However, the City's compensation administrator denied Spangler's claim because Spangler failed to show that his symptoms arose out of his employment. The appeals officer affirmed the decision, but the district court reversed.

On review, the Nevada Court of Appeals first determined that Spangler alleged an "occupational disease" and not an "accidental injury." Second, they clarified two historical uses of the word "preexisting"—one meaning *preexisting the claim*, the other meaning *preexisting the employment*. Third, they discovered that Spangler's claim was governed by NRS 617.366(1), which provides that a preexisting condition could be compensable if an occupational disease aggravates the condition. Finally, they determined that the appeals officer's decision to deny the claim was based on (1) an erroneous interpretation of the relevant statutes, and (2) a failure to apply NRS 617.366(1). Spangler needed only to show that his preexisting condition was aggravated by an occupational disease. Thus, the court affirmed the district court's reversal and remanded for further proceedings.

Background

This case arises out of City of Henderson Police Officer Jared Spangler's second claim for workers' compensation benefits, made in 2016. Spangler's first claim was in 2005 and alleged that the work-related noises—gun shots, sirens, radio chatter—caused him significant loss of hearing. The claim was denied, because the medical expert determined Spangler's symptoms preexisted his employment. Spangler did not appeal.

Then, in 2016, Spangler filed a second claim, again alleging that the exposure to the same work-related noises caused his condition to worsen. During this time, Spangler consulted three medical experts to determine the cause of his hearing loss. The first expert opined that, while the condition may have preexisted Spangler's employment, the work-related sounds caused an increase in Spangler's hearing loss. The second expert equivocally opined that job noise exposure might have worsened the hearing loss. Before Spangler consulted the third expert, the City's workers compensation administrator denied Spangler's claim. In preparation for appeal, Spangler sought a third medical expert, who opined that Spangler's condition preexisted his employment, but that the work environment was a contributory factor in the worsening of his condition. Ultimately, the appeals officer affirmed the denial of the claim, reasoning that Spangler failed to show an "injury by accident" or "occupational disease."

Spangler petitioned for judicial review, whereby the district court granted the petition and reversed the appeals officer's decision. The City then appealed the district court's orders, which brought the matter before the Nevada Supreme Court.

¹ By Connor J. Bodin.

Discussion

The City argued that the appeals officer (1) correctly interpreted “accident” as defined by NRS 616A.030; (2) correctly found that Spangler did not establish an “injury by accident” under NRS 616C.175(1); and (3) correctly found that Spangler’s condition was not a compensable “occupational disease” under NRS 617.440.²

Standard of Review

When reviewing an administrative agency’s decision, after a petition for judicial review, the court of appeals grants no deference to the district court’s decision.³ If the administrative agency’s fact-based conclusions of law are sound and supported by substantial evidence, the court will not reverse them.⁴ Evidence is substantial if a reasonable mind could find it adequate to support a conclusion.⁵ However, the court of appeals reviews administrative agency’s conclusions of law de novo.⁶

There are two types of work-induced conditions that compensable: (1) an “injury” under NRS Chapters 616A-D; or (2) an “occupational disease” under NRS Chapter 617.⁷

Whether Spangler’s hearing loss constitutes a compensable “injury by accident” under NRS Chapters 616A-D

The court quotes NRS 616A.030, which defines an “accident” as “an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury.”⁸ Spangler did not allege that his symptoms arose from a single, unforeseen event, but that they gradually worsened from his continuous exposure to the work-related noises. To this point, the court relied on the medical experts’ reports, none of which opined that a single incident caused Spangler’s condition. Thus, the court concluded that substantial evidence supported the appeals officer’s decision that Spangler’s claim did not establish an “injury by accident.”

Whether Spangler’s hearing loss constitutes a compensable “occupational disease” under NRS Chapter 617

The court then turns to the more contentious question of whether Spangler’s condition was an “occupational disease.” To be a compensable “occupational disease,” the court emphasizes that (1) the employee must show that occupational environment was most likely the cause of the disease, and (2) the employee must show a disablement resulting from the disease and not just the mere contraction.⁹

² NEV. REV. STAT. §§ 616A.030, 616C.175(1), 617.440 (2017).

³ Elizondo v. Hood Mach., 129 Nev. 780, 784, 312 P.3d 479, 482 (2013).

⁴ Grover C. Dils Med. Ctr. v. Menditto, 121 Nev. 278, 283, 112 P.3d 1093, 1097 (2005).

⁵ Horne v. State Indus. Ins. Sys., 113 Nev. 532, 537, 936 P.2d 839, 842 (1997).

⁶ Star Ins. Co. v. Neighbors, 122 Nev. 773, 776, 138 P.3d 507, 509-10 (2006)

⁷ NEV. REV. STAT. chs. 616A-D, 617 (2017).

⁸ NEV. REV. STAT. § 616A.030 (2017).

⁹ Seaman v. McKesson Corp., 109 Nev. 8, 10, 846 P.2d 280, 282 (1993); Employers Ins. Co. of Nev. v. Daniels, 122 Nev. 1009, 1014, 145 P.3d 1024, 1027 (2006).

Before continuing with their analysis, the court reiterates Spangler’s allegation. Spangler alleged that although his hearing loss preexisted his employment, his employment made his hearing loss significantly worse to the point where he could no longer perform his duties. As such, he alleged NRS 617.440 covers his condition, despite it being preexisting.

The meaning of “preexisting”

First, the court clarified the Nevada Supreme Court’s use of the term “preexisting.” In the past, the Court used the term in two different ways. In one way, “preexisting” refers to physical symptoms and physical states that preexisted *the claim for benefits*, even though they may not have preexisted the employment.¹⁰ In another way, Spangler’s way, “preexisting” refers to physical symptoms and physical states that preexisted *the employment* entirely. To elucidate the difference, the court references numerous cases where they use “preexisting” in the former manner and contrast them with NRS 617.366, which uses “preexisting” in the latter manner.¹¹ The court notes that neither party cited to NRS 617.366, although the statute governs the issue at hand, as it provides that a condition shall be deemed to be an occupational disease, and almost certainly compensable, if an employee (1) has a condition that preexists any employment, and (2) develops an occupational disease that worsens the condition.¹²

The court summarized the point by recognizing four distinct types of “preexisting conditions”: (1) A condition developed on the job that preexists the time of the claim.¹³ (2) A condition that preexists the employment that is worsened by a “sudden injury.”¹⁴ (3) A condition that preexists the employment that is worsened by a “occupational disease.”¹⁵ (4) An “occupational disease” that is worsened by nonindustrial aggravation.¹⁶ The court found that Spangler’s claims fell within the third type, governed by NRS 617.366 (1).

The meaning of “condition” and “occupational disease” within the statutes

After determining Spangler’s claim fell under NRS 617.366(1), the court interpreted the key terms of the statute, specifically “condition” and “occupational disease.”¹⁷ The court notes that, within the statute, a meaningful difference exists between the terms, but that the statute fails to provide a definition for either. Here, the court wearily prepares to interpret the statute, but avoids the endeavor by a convenient fact: the parties agreed that Spangler’s condition *would be* an occupational disease *if* the condition was sufficiently connected to Spangler’s employment. In other words, the parties only disputed the connection. Thus, the court determined that Spangler’s claim was eligible for compensation under NRS 617.366(1) as a matter of law.

The appeals officer’s findings of fact and conclusions of law

¹⁰ *Morrow v. Asamera Minerals*, 112 Nev. 1347, 929 P.2d 959 (1996).

¹¹ NEV. REV. STAT. § 617.366 (2017).

¹² *Id.*

¹³ A scenario governed by *Morrow*, 112 Nev. at 929; *Desert Inn Casino & Hotel v. Moran*, 106 Nev. 334, 337, 792 P.2d 400, 402 (1990); and *State Indus. Ins. Sys. v. Christensen*, 106 Nev. 85, 88, 787 P.2d 408, 409-10 (1990).

¹⁴ A scenario governed by NEV. REV. STAT. § 616A-D.

¹⁵ A scenario governed by NEV. REV. STAT. § 617.366(1).

¹⁶ A scenario governed by NEV. REV. STAT. § 617.366(2).

¹⁷ NEV. REV. STAT. § 617.366(1) (2017).

Finally, the court assessed the appeals officer's denial of the claim based on the evidence presented. The court referred back to the three medical experts' opinions. Each expert determined that while Spangler's condition preexisted his employment, the work-sounds made the symptoms substantially worse. The court tried to understand why the appeals officer, presented with the same evidence, affirmed the denial of the claim. They concluded that the appeals officer mistakenly expected Spangler to show that his condition was *entirely* attributable to his employment. The appeals officer also failed to apply NRS 616.366(1), which should have governed. However, contrary to the appeals officer's conclusion, the relevant statutes do not permit denial solely because the condition was preexisting. The court found that Spangler should simply have been burdened to show that his preexisting hearing loss that was made worse by the work-sounds. Thus, the court concluded that the appeals officer incorrectly applied the relevant statutes.

Conclusion

Because the appeals officer's factual findings were inconsistent with the correct statutory interpretations, the court remanded the case for further proceedings consistent with its opinion. Thus, the court affirmed the district court's decision, but on different grounds, specifically a correct application of NRS 617.366(1). The court instructed the district court to remand the matter back to the appeals officer.