STATE OF MICHIGAN

COURT OF APPEALS

ELLIS D. QUICK,

Plaintiff-Appellant,

v

GENERAL MOTORS CORPORATION,
FISHER BODY DIVISION,

Defendant-Appellee.

UNPUBLISHED
February 11, 1997

No. 170759
LC No. WCAC -105

Before: Doctoroff, P.J., and Hood and P. J. Sullivan,* JJ.

PER CURIAM.

Plaintiff appeals a November 10, 1993 decision of the Workers' Compensation Appellate Commission, successor to the former Workers' Compensation Appeal Board, which modified plaintiff's award of benefits for mental disability. We reverse and remand.

Plaintiff worked for defendant from January 1952 through August 15, 1980. During his last ten years of employment, he held a skilled position as a supervisor at defendant's Fleetwood plant. In April of 1981, he petitioned for workers' compensation benefits, alleging mental illness resulting from stress, tension, pressure and harassment at work.

Plaintiff testified that he is not capable of returning to his job at defendant's Fleetwood plant with the same supervisors who he said had harassed him in the past, but he acknowledged that he could work at one of defendant's other plants if his supervisors there did not treat him as he was treated by his supervisors at Fleetwood. He also testified that he could return to work at Fleetwood if he is not harassed and does not have contact with the people who were giving him a hard time.

The hearing referee granted plaintiff an open award of benefits, and that award was originally affirmed on appeal by the WCAB, but this Court remanded the case to the WCAB to consider and

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* Circuit judge, sitting on the Court of Appeals by assignment.

address defendant's argument that plaintiff does not have a limitation of wage-earning capacity in his general field of employment because any inability to work is restricted to his work for defendant and not other employers.

On remand, the WCAC agreed with defendant that in order to establish compensable disability, plaintiff's inability to work must reasonably extend to all employers in his general field and not just his prior Fisher Body/Fleetwood job. Accordingly, the WCAC closed plaintiff's award as of January 26, 1982, the date of his last examination by his treating psychiatrist, noting that there was no testimony from either plaintiff or any testifying psychiatrist that plaintiff had an impaired earning capacity or disability in work at another auto maker or at an automobile supplier in need of general supervisory personnel with a knowledge of major automobile production standards.

Plaintiff argues that the WCAC committed reversible error by applying a legally erroneous standard of disability to his claim. We agree. According to the law in effect at the time of plaintiff's injury, a person is disabled if there is any limitation on that person's ability to compete fully in his or her general field of employment. This includes an inability to perform one particular job for one particular employer due to a psychological aversion to working with a particular coworker, because such an aversion results in one less job available in that person's general field as compared to all other able-bodied workers. *Wilkins v General Motors Corp*, 204 Mich App 693, 701; 517 NW2d 40 (1994). If compensable disability may be established on the basis of a limitation specific to working with a particular coworker, it follows that disability may be based upon supervisor-specific, plant-specific or employer-specific limitations as well.

Defendant contends that even if plaintiff's inability to work with a particular supervisor or at a particular plant is sufficient to constitute a disability, the case should still be remanded for further analysis regarding plaintiff's weekly benefit rate in light of *Sobotka v Chrysler Corp*., 447 Mich 1; 523 NW2d 454 (1994). We disagree. *Sobotka*'s analysis does not apply in this case because plaintiff was awarded benefits for total rather than partial disability. See *Eaton v Chysler Corp (On Remand),* 203 Mich App 477, 489; 513 NW2d 156 (1994). On appeal to the WCAB, defendant did not challenge the hearing referee's failure to find plaintiff only partially disabled, nor did the WCAB exercise its discretion to raise the issue of partial versus total disability *sua sponte.* See *Nelson v General Motors Corp*, 122 Mich App 499, 502-503; 332 NW2d 514 (1983). Moreover, the issue of plaintiff's benefit rate is beyond the focus of this Court's previous remand order. See *In Re Loose (On Remand),* 212 Mich App 648, 653; 538 NW2d 32 (1995). Accordingly, we reverse the decision of the WCAC and remand this case to the WCAC for entry of an order affirming the hearing referee's open award of total disability benefits.

Reversed and remanded.

/s/ Martin M. Doctoroff
/s/ Harold Hood
/s/ Paul J. Sullivan