

STATE OF MICHIGAN
COURT OF APPEALS

CHRISTINE RICHARD,

UNPUBLISHED

Plaintiff-Appellant,

v

No. 188917

LC No. 91-000578

WCAC

STATE OF MICHIGAN, MICHIGAN
DEPARTMENT OF AGRICULTURE, and
THE ACCIDENT FUND OF MICHIGAN,

Defendant-Appellees.

Before: Michael J. Kelly, P.J., and Saad and H.A. Beach,* JJ.

SAAD, J. (Dissenting)

I respectfully dissent and would affirm because the Worker's Compensation Appellate Commission (WCAC) did not make any errors of law and there is competent evidence to support the Commission's findings of fact.

Gardner v VanBuren Public Schools, 445 Mich 23, 47; 517 NW2d 1, 11 (1994) requires that specific events of employment "contribute to, aggravate, or accelerate a mental disability in a *significant manner*" (emphasis added). Here, there was no finding by the magistrate that work-related events aggravated plaintiff's condition in a significant manner. Although the magistrate mentioned both nonemployment and employment factors, the magistrate found that there was a dispute over whether plaintiff's work situation aggravated the agoraphobia, and thus he concluded that there was a "symptomatic aggravation of her agoraphobia only." The Commission then reversed as it reasoned that considering the whole record, there was no evidence that a reasonable mind would accept as adequate to conclude that plaintiff's mental disability was aggravated in a "significant manner" by her employment. I agree.

There was competent evidence to support the findings of fact by the Commission. In her application for long term disability benefits, plaintiff herself claimed that her stress and nervous condition were not job related. The psychiatrist, Dr. Lo testified that plaintiff's panic attacks could be triggered

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

by anything, and Dr. Trebilcock (the counselor) stated that plaintiff was similarly unable to relate her condition in June, 1987, to anything specific.

Accordingly, I would affirm the Commission's reversal of the magistrate's grant of a closed award.

/s/ Henry William Saad