

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

DENNIS W. GRAY,

Plaintiff-Appellant,

v

JOHNSON CONTROLS, INC.,

Defendant-Appellee.

---

UNPUBLISHED  
October 15, 1999

No. 215260  
WCAC  
LC No. 96-000890

Before: Neff, P.J., and Murphy and J. B. Sullivan\*, JJ.

PER CURIAM.

Plaintiff appeals by leave granted from the opinion and order of the Workers' Compensation Appellate Commission (WCAC) affirming the magistrate's decision denying benefits. We affirm.

I

Plaintiff began working for defendant in June 1992 and was employed as a fiberglass cutter working with large machinery. On November 19, 1992, plaintiff was pulling out a pipe that was stuck when he felt his shoulder wrench. He was diagnosed with a cervical spine disc herniation. Plaintiff was referred to a medical specialist who performed a cervical laminectomy and fusion on January 13, 1993. The surgery eliminated plaintiff's pain in his shoulder and arm, but left him with some residual numbness in his arm. While he was recuperating from the surgery, he was at a flea market and sneezed, after which he noted pain in his lower back and hip.

Plaintiff returned to work in June 1993; however, rather than doing his previous job, he worked on water-jet cutting equipment that could accommodate the restrictions his physician had imposed. Soon afterward, he was promoted to team leader. Although this job included supervisory responsibility, it also required physical labor that was in excess of the restrictions imposed. Despite this, plaintiff missed no work until he decided to quit in late December 1993. Plaintiff's last day of work was January 7, 1994. Since leaving his job, plaintiff has not worked full-time.

---

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

## II

Plaintiff filed an application for mediation or hearing on January 10, 1995, one year after leaving his employment, claiming that he was permanently disabled from work by residual symptoms from the laminectomy, specifically numbness and weakness in his arm, and lower back pain. Following a hearing, the magistrate found that plaintiff had sustained a work-related injury on November 19, 1992, which resulted in a non-disabling limitation in his left arm. He determined that any injury to plaintiff's lower back happened as a result of the sneezing episode and was not work related. Finally, the magistrate concluded that plaintiff left his job for personal reasons, and not because of an inability to perform his job duties. Accordingly, plaintiff's claim for ongoing benefits was denied.

Plaintiff appealed the decision to the WCAC, which affirmed the magistrate's decision. The commission found that plaintiff failed to prove a disability, and that even if he had, the evidence showed that plaintiff was avoiding work he was capable of performing. Plaintiff then sought leave to appeal in this Court, asserting that the commission erred as a matter of law by failing to reverse the magistrate's finding that plaintiff's work-related injury did not cause a continuing disability.

## III

This Court's review of worker's compensation cases is limited to questions of law; factual findings made by or adopted by the WCAC are conclusive, absent fraud, if there is any competent evidence to support them. MCL 418.861a(14); MSA 17.237(861a)(14); *Goff v Bil-Mar Foods, Inc (After Remand)*, 454 Mich 507, 512; 563 NW2d 214 (1997); *Michales v Morton Salt Co*, 450 Mich 479, 484-485; 538 NW2d 11 (1995). A decision of the WCAC may be reversed if the commission operated within the wrong legal framework or its decision was based on erroneous legal reasoning. *Darling v Inner City Trucking (On Remand)*, 221 Mich App 521, 523-524; 561 NW2d 865 (1997).

## A

Despite plaintiff's formulation of the issue, the question involved in this case is a factual one that must be affirmed if there is any evidence in the record to support the commission's decision. There is ample evidence to support the conclusion that plaintiff's separation from his employment was unrelated to any physical symptoms he might have.

The employee relations manager for defendant stated that she had a discussion with defendant in connection with his decision to leave during which plaintiff indicated that the reason he was resigning from his employment was that he wanted to spend more time with his family. This was consistent with a December 22, 1993, resignation letter stating that he was leaving for personal reasons. The unanimous testimony of plaintiff's coworkers was that plaintiff never referred to any physical problems as his reason for resigning. Although plaintiff claimed that he suffered a partial disability in that there was at least one job within his qualifications and training that he could not do, i.e., overhead work, he, in fact, continued to perform his job without complaint and without missing any time from work until he resigned.

The magistrate and the WCAC found plaintiff's testimony regarding the severity of his symptoms to be incredible in light of the uncontroverted evidence that he continued to perform physically demanding tasks at home that required heavy lifting. Thus, the evidence supported the commission's finding that even if some residual weakness remained in plaintiff's left arm, it was negligible and did not affect his ability to work.

B

Plaintiff contends that the magistrate's decision was flawed because it relied on the wrong definition of disability. However, the WCAC's opinion expressly relied on the test set forth in *Haske v Transport Leasing, Inc, Indiana*, 455 Mich 628, 634; 566 NW2d 896 (1997). Thus, no legal error occurred. Applying that test, the commission concluded that plaintiff had failed to prove the existence of a subsequent loss in actual wages that was caused by a work-related injury. The magistrate found the testimony of plaintiff's coworkers credible when they stated that he never complained about being unable to perform his job.

Furthermore, there is no dispute that to the extent plaintiff may be disabled at all, his disability is only partial. Plaintiff did not go to his supervisors and ask for lighter or less strenuous work because of his back and arm problems; he just quit. Thus, the commission's conclusion that plaintiff was not entitled to benefits because he was avoiding work he was capable of performing was also supported by the record.

Affirmed.

/s/ Janet T. Neff  
/s/ William B. Murphy  
/s/ Joseph B. Sullivan