

STATE OF MICHIGAN  
COURT OF APPEALS

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RAYMOND C. SCHORNAK,  
Plaintiff-Appellee,

UNPUBLISHED  
July 15, 2008

v

DAIMLERCHRYSLER CORPORATION,  
Defendant-Appellant.

No. 277024  
WCAC  
LC No. 05-000316

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Before: Owens, P.J., and O’Connell and Davis, JJ.

PER CURIAM.

Defendant appeals as on leave granted<sup>1</sup> the order of the Workers’ Compensation Appellate Commission (WCAC) affirming a magistrate’s open award of benefits to plaintiff. Plaintiff suffered a heart attack at work on June 1, 2002, and became disabled as a result. We affirm.

Plaintiff had been employed by defendant since 1968 working production jobs, including welding and operating presses. He was diagnosed with hypertension in 2001, and he had a history of smoking and drinking alcohol. In the months leading up to June 2002, plaintiff reported to medical personnel that he was intermittently experiencing chest pains when he exerted himself, but that the pain would only last a moment.<sup>2</sup> In May 2002, he underwent a stress test, but neither of the testifying doctors regarded it as significant, in large part because it was not disputed that plaintiff already had heart disease at that time.

Also in May 2002, plaintiff availed himself of an opportunity to switch to a janitorial job, which entailed a pay reduction but permitted him to work at his own pace and finish his work

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<sup>1</sup> This Court denied leave to appeal on August 16, 2007. Our Supreme Court remanded the matter with instructions for this Court to, among other things, consider and explain “whether the plaintiff’s medical proofs satisfied his burden of proving that the damage done to his heart by the work he performed during the course of his heart attack was medically distinguishable and that the condition of his heart was made significantly worse than it would have been without performance of the work.” *Schornak v DaimlerChrysler Corp*, 480 Mich 1000-1001 (2007).

<sup>2</sup> Apparently, much of the medical treatment he sought was actually for gastrointestinal concerns.

early. His new job required him to work in the basement of the plant, where he would shovel scrap, soap and sweep the floor, and use a heavy hose to suck oil out of a drain. The basement was hot and poorly ventilated, allegedly warmer than the outside ambient temperature, and plaintiff was required to wear a uniform. Plaintiff's job was "a one-man job," although there were other employees who drove tractors around in the basement. On June 1, 2002, shortly after returning from his lunch break, plaintiff felt chest pain, stopped to catch his breath, and returned to work. The pain returned and got worse. Plaintiff then went to the medical area, which was "two blocks" away and required plaintiff to climb the stairs to exit the basement. It took plaintiff 12 to 13 minutes to get there. Plant medical records reflect that plaintiff was sweating heavily and had been working in heavy clothing, and that the outdoor temperature at that time was 86 degrees Fahrenheit. Plaintiff was given oxygen and nitroglycerine, and he was transported to a hospital. Plaintiff was diagnosed with an acute myocardial infarction, and he eventually underwent multiple operations, including implantation of a defibrillator and pacemaker.

It is not disputed that plaintiff has suffered permanent heart damage. Both parties' medical experts agreed that plaintiff is medically disabled from his former line of work and no longer able to exert himself physically; he could, at the most, engage in some sedentary employment. The only real dispute in this matter is whether plaintiff's employment had any "significant" adverse effect on the heart attack and plaintiff's current medical condition. The magistrate listed a number of contributing factors and concluded that the occupational factors – particularly including the physical demands placed on plaintiff in order for him to obtain medical help – outweighed the nonoccupational factors. Defendant appealed to the WCAC, which affirmed.

Our review begins with the WCAC's decision, not the magistrate's decision. *Mudel v Great Atlantic & Pacific Tea Co*, 462 Mich 691, 709; 614 NW2d 607 (2000). The WCAC administratively reviews the magistrate's decision to determine whether it was supported by substantial evidence on the whole record, but we treat the WCAC's factual findings as conclusive if they are supported by any evidence. *Id.*, 698-710. However, we review de novo the WCAC's determinations of law. *DiBenedetto v West Shore Hosp*, 461 Mich 394, 401-402; 605 NW2d 300 (2000).

Generally, an employee who suffers a personal injury arising out of and in the course of employment is entitled to worker's compensation benefits. MCL 418.301(1). In regard to "conditions of the aging process, including but not limited to, heart and cardiovascular conditions," such conditions "shall be compensable if contributed to or aggravated or accelerated by the employment in a significant manner." MCL 418.301(2). A heart "injury" is a "heart condition" that may be compensable under MCL 418.301(2) if significantly caused or aggravated by employment. *Farrington v Total Petroleum Inc*, 442 Mich 201, 214-217; 501 NW2d 76 (1993). Therefore, heart damage, including heart damage caused by a heart attack, is compensable if linked by sufficient evidence to the workplace. *Miklik v Michigan Special Machine Co*, 415 Mich 364, 368; 329 NW2d 713 (1982). Contrary to defendant's argument, plaintiff's work need not have caused plaintiff's underlying heart disease.

Consistent with the above case law, the compensable "injury" found by the WCAC was not plaintiff's chest pain or the heart attack itself, but rather the ultimate damage to plaintiff's heart. Therefore, the question is whether plaintiff's ultimate heart damage was sufficiently related to his employment. To determine whether an alleged heart injury "went beyond the

manifestation of symptoms of the underlying disease,” and was “significantly caused or aggravated by employment,” it is necessary to consider “the totality of all the occupational factors and the claimant’s health circumstances and nonoccupational factors.” *Farrington, supra* at 216-217.

Here, the WCAC cited and discussed a number of relevant occupational and nonoccupational factors. Our Supreme Court has explained that nonoccupational factors to consider include: age, weight, diet, previous cardiac ailments or injuries, genetic predispositions, and the claimant’s consumption of alcohol and use of tobacco or other drugs. *Farrington, supra* at 217 n17. Occupational factors include: the temporal proximity of the cardiac episodes to the work experience, the physical stress to which the plaintiff was subjected, the conditions of employment, and the repeated return to work after each episode. *Id.* at 221. In particular, the WCAC relied on the following portion of plaintiff’s treating physician’s testimony:

A heart attack is caused by the lack of blood and oxygen to the heart muscle. *The heart muscle begins to die and it’s a process that generally takes hours to complete.* And that’s why when we treat patients with these emergency angioplasty or plaque dissolving medicines, we can reduce the amount of damage and disability to the patient.

The onset is usually when the artery closes and *the amount of damage depends on the oxygen requirement of the heart muscle downstream that’s not getting blood and oxygen.* If that muscle is at rest, the requirements for oxygen are less and the damage occurs more slowly and may be diminished. *If that muscle has high demand for nutrients and oxygen, then the damage is usually worse and would happen more quickly.* And that’s where I think having someone continue to work while they’re having a heart attack would be expected to result in more significant damage, permanent damage to the heart than if they were at rest.” [Emphasis in WCAC Opinion.]

In other words, continuing to stress the heart muscle by engaging in activity after the onset of a heart attack – such as climbing up the stairs out of the basement and walking to the medical department – would cause more significant damage to a heart attack victim like plaintiff than if the victim were at rest, and increased temperature also increases the demand on the heart.

The evidence shows that for a substantial period of time after the heart attack began, plaintiff was subjected to work-related conditions that caused his heart to sustain more damage than would otherwise have been the case. We find no error in the WCAC weighing the occupational factors more heavily in attributing the cause of plaintiff’s ultimate heart damage. There is evidence in the record to support a finding that plaintiff’s heart damage “went beyond the manifestation of symptoms of the underlying disease,” and was “significantly caused or aggravated by the employment.” See *Farrington, supra* at 216-217.

Defendant further claims that the award of benefits in this case violates the principles set forth in *Rakestraw v General Dynamics Land Sys, Inc*, 469 Mich 220; 666 NW2d 199 (2003). *Rakestraw* held that where a claimant experiences symptoms that are consistent with the progression of a nonwork-related, preexisting, condition, the burden rests on the claimant to differentiate between the preexisting condition, which is not compensable, and a work-related

injury, which is compensable. *Id.* at 231-232. There must be record evidence from which a legitimate inference may be drawn that the plaintiff's underlying condition has pathologically changed as a result of a work event or activity. *Fahr, supra.* In this case, as discussed, the medical testimony and the evidence regarding the occupational factors to which plaintiff was subjected after the onset of the chest pain, create a legitimate inference that plaintiff's employment significantly aggravated his heart damage. Consequently, we are of the opinion plaintiff met his burden of proving that his current heart condition is "medically distinguishable" from the natural progression of the underlying, preexisting, condition.

Affirmed.

/s/ Donald S. Owens  
/s/ Peter D. O'Connell  
/s/ Alton T. Davis