IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-441

No. COA21-642

Filed 21 June 2022

North Carolina Industrial Commission, I.C. No. 18-52746

BERNARD STEWART, Employee, Plaintiff,

v.

GOULSTON TECHNOLOGIES, INC., Employer, STANDARD FIRE INSURANCE COMPANY, Carrier, Defendants.

Appeal by Defendants from order entered 2 July 2021 by the Full Commission of the North Carolina Industrial Commission. Heard in the Court of Appeals 24 May 2022.

Sumwalt Anderson Law Firm, by Mark T. Sumwalt, Richard L. Anderson, and Lauren H. Walker, for Plaintiff-Appellee.

Hedrick Gardner Kincheloe & Garofalo LLP, by M. Duane Jones and Neil P. Andrews, for Defendants-Appellants.

INMAN, Judge.

¶ 1 Plaintiff Bernard Stewart ("Mr. Stewart") was awarded benefits under the Workers' Compensation Act following what the Industrial Commission found to be a compensable fall while Mr. Stewart was working at Defendant Goulston Technologies, Inc. Goulston and its carrier (together, "Goulston") appeal the

Commission's Opinion and Award on the ground that Mr. Stewart's injury did not arise out of his employment. For the reasoning set forth below, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

¶ 2 The record evidence tends to show the following:

¶ 3 Mr. Stewart has worked as a chemical operator for approximately fifteen years. He began working as a chemical operator for Goulston Technologies, Inc. in March of 2018. In that position, Mr. Stewart was not required to touch chemicals directly, but at times while mixing chemicals he was exposed to odorous fumes.

¶ 4 On 28 November 2018, Mr. Stewart started work at 5:00 am in the mill department, where he mixed a batch of chemicals. Around 11:00 a.m., Mr. Stewart moved to a different lab department and, consistent with his job duties, began mixing chemicals including Dytek and an acid powder. At 1:00 p.m., the chemicals released a strong odor and Mr. Stewart began to feel nauseated. He left the mixing station and moved to the breakroom on the second floor to cool down. After about fifteen minutes, Mr. Stewart, still nauseated, stepped outside the breakroom because he "felt like he had to throw-up and was attempting to leave," and walked toward the railing at the top of a staircase. The next thing Mr. Stewart recalled was lying at the bottom of the staircase. Mr. Stewart's medical records stated he "was reported to have had a syncopal episode and fallen down approx[imately] 15 industrial type steps hitting his head and neck."

¶ 5 Fifteen to twenty minutes after Mr. Stewart found himself at the bottom of the staircase, a coworker found him and called a "Code Blue" to indicate a medical emergency had occurred. Several employees responded, including Goulston Technologies's Human Resources Manager, who asked Mr. Stewart, "What happened? Did the chemicals get you?"

¶ 6 Both a CT scan and MRI revealed "evidence for spinal stenosis with contusion of the spinal cord and ongoing spinal cord compression." Doctors diagnosed Mr. Stewart's spinal cord injury as "an incomplete spinal cord injury," meaning he was not paralyzed but would experience continued extremity weakness. Mr. Stewart was referred to neurosurgeon Dr. Domagoj Coric, M.D., who conducted spinal surgery on Mr. Stewart at C2 through C6. Mr. Stewart remained hospitalized until 19 December 2018.

¶ 7 At his postoperative consultation, Mr. Stewart reported that he was experiencing ongoing pain sensations throughout his left arm, as well as left hand tightness, swelling, and decreased left hand grip. Dr. Coric did not release Mr. Stewart to return to work in any capacity. As a result of the injury suffered in the fall, Mr. Stewart continues to experience shocking sensations in his hand and reduced range of motion and must wear a compression glove on his left hand.

¶ 8 On 13 December 2018, Mr. Stewart filed a Form 19 making his claim for benefits under the Workers' Compensation Act.

¶ 9 Before he fell at work, Mr. Stewart had been diagnosed with several chronic conditions, including hypertension, diabetes, and obesity. Mr. Stewart's primary care physician acknowledged that if his chronic medical conditions were left uncontrolled, they could cause a syncopal episode. A syncopal episode is typically a fainting episode that can result from any number of causes. Mr. Stewart's primary care physician explained a syncopal episode is multifactorial, but she did not have an opinion on whether a pre-existing medical condition or chemical exposure caused Mr. Stewart's episode the day of the incident.

¶ 10 Goulston denied Mr. Stewart's claim for Workers' Compensation benefits on the basis that his injury did not fall within the category of compensable injuries under the North Carolina Workers' Compensation Act. Goulston noted Mr. Stewart's idiopathic condition and claimed he "was not placed at a greater risk" due to his employment. Mr. Stewart filed a Request for Hearing with the North Carolina Industrial Commission, which came on for hearing before the Deputy Commissioner on 12 June 2019.

¶ 11 On 29 January 2020, the Deputy Commissioner entered an opinion and award finding Mr. Stewart's fall constituted a compensable injury by accident under the Workers' Compensation Act. Goulston filed a Notice of Appeal to the Full Commission on 6 February 2020. Mr. Stewart filed a Notice of Appeal to the Full Commission on 11 February 2020. On 7 April 2020, the parties filed their Form 44s.

¶ 12 On 23 June 2020, the case was heard before the Full Commission. On 2 July 2021, the Full Commission entered an opinion and award concluding Mr. Stewart's fall constituted an "accident" under the Act in that it was "an unusual and unforeseen occurrence" and there was no evidence it was due to an idiopathic condition rather than workplace conditions. The Full Commission therefore concluded the cause of Mr. Stewart's fall was unknown. The Full Commission further concluded that even if Mr. Stewart's syncopal episode were caused by an idiopathic condition, the record showed that any idiopathic condition was combined with workplace conditions to result in the syncopal episode. The Full Commission affirmed Mr. Stewart's award of benefits under the Act, and Goulston filed a Notice of Appeal with this Court on 29 July 2021.

STANDARD OF REVIEW

¶ 13 "The question of whether an injury 'arises out of employment' is a mixed question of law and fact and our review is limited to whether the findings and conclusions are supported by competent evidence." *Janney v. J.W. Jones Lumber Co.*, 145 N.C. App. 402, 404, 550 S.E.2d 543, 546 (2001) (quotation marks omitted). This Court has no authority "to weigh the evidence and decide the issue on the basis of its weight." *Deese v. Champion Int'l Corp.*, 352 N.C. 109, 115, 530 S.E.2d 549, 552 (2000). Our "duty goes no further than to determine whether the record contains any evidence tending to support the finding[s]." *Adams v. AVX Corp.*, 349 N.C. 676, 681, 509 S.E.2d 411, 414 (1998). Since the Workers' Compensation Act provides the

claimant's exclusive remedy, benefits "will not be denied by narrow, technical or strict interpretation." *Stevenson v. City of Durham*, 281 N.C. 300, 303, 188 S.E.2d 281, 283 (1972).

ANALYSIS

¶ 14 The Workers' Compensation Act defines a compensable workplace injury as "only injury by accident arising out of and in the course of the employment . . . ." N.C. Gen. Stat. § 97-2(6) (2021). The second element—"arising out of" the employment—"relates to the origin or cause of the accident." *Taylor v. Twin City Club*, 260 N.C. 435, 438, 132 S.E.2d 865, 867 (1963).

¶ 15 It is the employee's burden to show the claimed injury arose from his or her employment. *Id.* at 437,132 S.E.2d at 867. This burden is satisfied by a showing that the injury "c[ame] from the work the employee is to do, . . . or as a natural result of one of the risks of the employment . . . ." *Id.* at 438, 132 S.E.2d at 868. "An injury is said to arise out of the employment when it occurs in the course of the employment and is a natural and probable consequence or incident of it, so that there is *some* causal relation between the accident and the performance of some service of the employment." *Id.* at 438, 132 S.E.2d at 868 (emphasis added).

¶ 16 "[I]f the cause or origin of a fall is unknown or undisclosed by the evidence, we apply case law unique to unexplained fall cases." *Philbeck v. Univ. of Mich.*, 235 N.C. App. 124, 128, 761 S.E.2d 668, 672 (2014) (quotation marks omitted). Our Supreme

Court has held that

> where an employee, while about his work, suffers an injury in the ordinary course of his employment, the cause of which is not explained, but which is a natural and probable result of a risk thereof, and the Commission finds from all of the attendant facts and circumstances that the injury arose out of the employment, an award will be sustained.

Taylor, 260 N.C. at 439, 132 S.E.2d at 868.

¶ 17 "Unexplained falls, however, are differentiated in our case law from falls associated with an idiopathic condition of the employee." *Philbeck*, 235 N.C. App. at 128, 761 S.E.2d at 672. "An idiopathic condition is one arising spontaneously from the mental or physical condition of the particular employee." *Id.* (citation omitted).

¶ 18 "[A]" fall connected to an idiopathic condition is not presumed to arise out of the employment." *Id*. But the presence of an idiopathic condition will not preclude compensation "[w]here the injury is associated with any risk attributable to the employment, . . . even though the employee may have suffered from an idiopathic condition which precipitated or contributed to the injury." *Id.* (citation omitted). An injury will be held to arise out of the employment "if the idiopathic condition of the employee combines with risks attributable to the employment to cause the injury." *Janney*, 145 N.C. App. at 404, 550 S.E.2d at 546 (quotation marks omitted). "Where any reasonable relationship to the employment exists, or employment is a contributory cause, the court is justified in upholding the award as 'arising out of

employment.' " *Id.* at 404, 550 S.E.2d at 545-46.

¶ 19 Goulston concedes Mr. Stewart's injury was caused by an accident and sustained in the course of his employment. Goulston challenges only the Full Commission's conclusion that Mr. Stewart's injury arose out of his employment. Specifically, Goulston contends Mr. Stewart's fall was not unexplained, because he fell due to fainting from an idiopathic condition and, therefore, his injury is not compensable. We disagree and conclude there was sufficient evidence to support the Commission's findings and conclusions as to whether Mr. Stewart's injury arose from his employment.

¶ 20 We affirm the Commission's conclusion that Mr. Stewart's injury was caused at least in part by the workplace conditions of his chemical operator position. Mr. Stewart fell and was injured eight hours into his typical 11- to 14-hour shift. His assignment the day of the accident involved mixing a batch of chemicals and then moving to another lab to mix a second batch of chemicals consisting of acid powder and Dytek, the latter of which Mr. Stewart testified has "a very strong odor." According to Mr. Stewart, the potency of the chemicals that day was such that the odor was particularly strong. Mr. Stewart did not feel sick or nauseated before he began mixing the second batch of chemicals. His assignment required him to wear protective gear, which included a body suit, gloves, and a face-shielded helmet. Mr. Stewart testified under oath that when he began mixing those chemicals, "[i]t put off

a strong odor, and I just felt nausea." Mr. Stewart suggested the lab was quite warm, stating he immediately went upstairs to "a cooler place to try to cool down[.]" Mr. Stewart also testified the building was not well ventilated. It took roughly fifteen to twenty minutes for anyone to arrive after Mr. Stewart "hollered for help." Upon arriving to the scene, the Human Resources Manager approached Mr. Stewart and asked him, "What happened? Did the chemicals get you?"

¶ 21 Assuming Mr. Stewart may have experienced some idiopathic condition the day of the injury, competent evidence supports the Commission's conclusion that any such condition combined with risks attributable to his employment such that the injury arose from the employment, and that he is therefore entitled to compensation under the Act.

CONCLUSION

¶ 22 The facts found by the Industrial Commission were supported by sufficient evidence and permit the conclusion that Mr. Stewart's injury arose out of his employment, thus constituting a compensable injury under the Workers' Compensation Act. Accordingly, the Opinion and Award of the Industrial Commission is

AFFIRMED.

Judges ZACHARY and JACKSON concur.

Report per Rule 30(e).