

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRADLEY M. HAMLIN,
Appellant,
vs.
WACKENHUT, INC.,
Respondent.

No. 45249

FILED

JAN 31 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY  CHIEF DEPUTY CLERK

This is a proper person appeal from a district court order denying a petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge. The parties are familiar with the facts and procedural history of this case, so we do not recount them, except as is necessary for our disposition.

Appellant Bradley M. Hamlin argues that the district court erred in affirming the appeals officer's decision to terminate his temporary total disability (TTD) payments for a 2002 injury and in denying his claim for benefits for a 2001 injury.

Standard of review

This court, like the district court, reviews administrative agency decisions for abuse of discretion.¹ This court cannot substitute its judgment for that of the agency as to credibility determinations.²

¹Ayala v. Caesars Palace, 119 Nev. 232, 235, 71 P.3d 490, 491 (2003); see also NRS 233B.135(3).

²State, Emp. Sec. Dep't v. Weber, 100 Nev. 121, 124, 676 P.2d 1318, 1320 (1984); NRS 233B.135(3).

Therefore, we defer to an agency's factual findings when they are supported by substantial evidence in the administrative record.³ Substantial evidence is evidence that might reasonably be accepted as sufficient to support a conclusion⁴ and can be "inferentially shown by [a] lack of [certain] evidence" in the record.⁵ This court reviews questions of law, such as statutory construction, de novo.⁶ However, because an agency's conclusions of law are closely related to its view of the facts, they are entitled to deference.⁷ A district court does not abuse its discretion by affirming administrative decisions that are based on substantial evidence.⁸

The insurer properly closed Hamlin's 2002 claim

Under NRS 616C.475(5), "[p]ayments for a temporary total disability must cease when . . . [a] physician . . . determines that [an] employee is physically capable of any gainful employment for which the employee is suited." In this case, the appeals officer found that Hamlin

³See Rio Suite Hotel & Casino v. Gorsky, 113 Nev. 600, 603, 939 P.2d 1043, 1045 (1997).

⁴Id. at 603-04, 939 P.2d at 1045.

⁵Wright v. State, Dep't of Motor Vehicles, 121 Nev. 122, 125, 110 P.3d 1066, 1068 (2005) (quoting City of Reno v. Estate of Wells, 110 Nev. 1218, 1222, 885 P.2d 545, 548 (1994)).

⁶Tighe v. Las Vegas Metro. Police Dep't, 110 Nev. 632, 634-35, 877 P.2d 1032, 1034 (1994).

⁷Ayala, 119 Nev. at 235, 71 P.3d at 491.

⁸Currier v. SIIS, 114 Nev. 328, 333, 956 P.2d 810, 813 (1998).

was released for full duty after his 2002 back injury. Having reviewed the record, we conclude that substantial evidence supports that finding.⁹

Because he had been released to full duty, Hamlin was no longer entitled to TTD payments. Accordingly, his employer's insurer determined that under NRS 616C.475, it should stop making payments. The appeals officer affirmed the insurer's determination, which we conclude was not an abuse of discretion.

The insurer properly denied Hamlin's 2001 claim

Under NRS 616C.015, an injured employee is required to report his injury to his employer by written notice. The employee must also "file a claim for compensation with the insurer within 90 days after an accident" in order to receive benefits.¹⁰ The courts are required to interpret the statutes governing the workers' compensation program according to their plain meaning and cannot construe them broadly or liberally in favor of any party.¹¹

Here, the appeals officer found that Hamlin failed to file a timely claim for his 2001 injury and found insufficient evidence to excuse

⁹We note Hamlin's strenuous argument that his evidence could support a different conclusion. However, our review is limited to examining the record to determine if substantial evidence supports the administrative agency's decision. It is beyond the scope of our review to reweigh the evidence. Gorsky, 113 Nev. at 603, 939 P.2d at 1045; see also NRS 233B.135(3).

¹⁰NRS 616C.020.

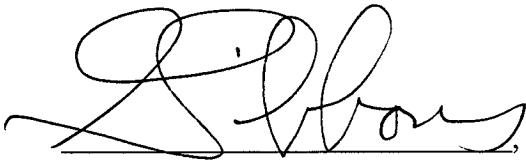
¹¹NRS 616A.010; Banegas v. SIIS, 117 Nev. 222, 231, 19 P.3d 245, 251 (2001).

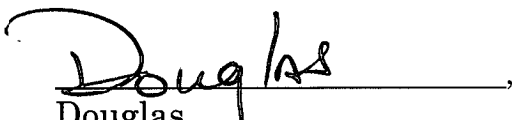
Hamlin's failure to file a claim. We conclude that there is substantial evidence in the record to support those findings.

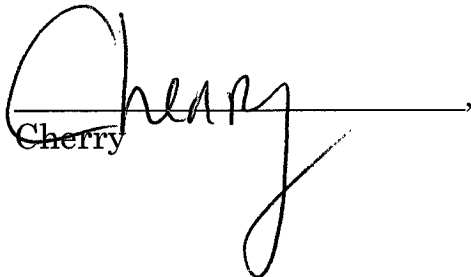
Based on those findings, the insurer and appeals officer correctly applied the provisions of NRS Chapter 616C by determining that Hamlin's failure to file a timely claim barred him from receiving benefits for his 2001 injury.

We have considered Hamlin's other arguments and find them without merit. Therefore, we conclude that the district court did not abuse its discretion by denying Hamlin's petition for judicial review. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Gibbons J.


Douglas J.


Cherry J.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Bradley M. Hamlin
J. Michael McGroarty, Chtd.
Eighth District Court Clerk