

IN THE SUPREME COURT OF THE STATE OF NEVADA

HUGH MACDONALD,
Appellant,


vs.

MEADOWBROOK INSURANCE;
EMPLOYERS INSURANCE COMPANY
OF NEVADA; DIGGER ONE
EXCAVATION; AND POWER PLUS
F/K/A JET CONCRETE,
Respondents

No. 52808

FILED

DEC 09 2010

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

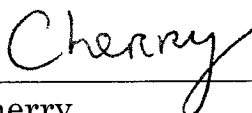
This is an appeal from a district court order denying a petition for judicial review in a workers' compensation action. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

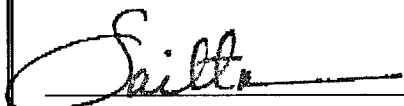
In 1996, appellant Hugh MacDonald suffered a compensable workplace injury to his hip. This claim was closed in 2003, with allowance for an additional year of medical benefits terminating in June 2004. In February 2004, MacDonald again injured his hip in a workplace accident, for which he received workers' compensation for a hip contusion. MacDonald was subsequently in a nonwork related automobile accident in March 2004. On appeal, MacDonald challenges the administrative appeals officer's decision to deny further treatment after the March 2004 automobile accident, in light of her conclusion that this nonindustrial accident was the substantial cause of MacDonald's continued need for medical treatment.


MacDonald's appellate briefing is unclear as to why he thinks the appeals officer's decision should be set aside. He principally argues that the decision is not supported by substantial evidence because the insurers did not meet their burden under NRS 616C.175(2) (providing that an employee who suffers a workplace injury and subsequently aggravates

that injury in a manner not arising out of the workplace can receive compensation for that subsequent injury unless the insurer can prove, by a preponderance of the evidence, that the original workplace injury was “not a substantial contributing cause of the resulting condition”). He then proceeds to argue that his right hip was not in fact injured in the March 2004 automobile accident and asserts that there is no evidence that his right hip was reinjured by the March automobile accident, and thus NRS 616C.175(2) does not apply. Nevertheless, we have reviewed the record on appeal and conclude that that the appeals officer’s decision is supported by substantial evidence and was not a product of clear error or an abuse of discretion. See Day v. Washoe County Sch. Dist., 121 Nev. 387, 389, 116 P.3d 68, 69 (2005) (explaining that this court will not reweigh the evidence or overturn an appeals officer’s decision that is supported by substantial evidence); Construction Indus. v. Chalue, 119 Nev. 348, 352, 74 P.3d 595, 597 (2003) (noting that this court reviews an administrative decision for clear error or an abuse of discretion). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. David B. Barker, District Judge
Carolyn Worrell, Settlement Judge
Lewis Brisbois Bisgaard & Smith, LLP
Lynne & Associates
Nevada Attorney for Injured Workers/Las Vegas
The Eighth District Court Clerk