IN THE SUPREME COURT OF THE STATE OF NEVADA

AIG DOMESTIC CLAIMS,
Appellant,
vs.
DARNELL HALL,
Respondent.

No. 53837

FILED

JUN 21 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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.

Respondent Darnell Hall injured her back while working as a bartender at the Stratosphere in Las Vegas. Her job duties required her to periodically restock the bar. To do so, she had to carry beer cases down one flight of stairs. She began experiencing more frequent and sustained back pain in December 2007. Because Hall had prior back pain history, she told her supervisor and her union that she needed help carrying the beer cases. Her employer denied her request for financial reasons. On March 12, 2008, Hall suffered a debilitating back injury while carrying a case of beer down a flight of stairs. Two days later she filed a worker's compensation claim.

Appellant AIG Domestic Claims denied Hall's claim. The denial concluded that Hall's injury resulted from her failure to disclose her back problems to her supervisor rather than a work-related accident. A hearing officer affirmed AIG's denial. An appeals officer subsequently reversed the denial. The appeals officer concluded that Hall disclosed her back problems to supervisors at the Stratosphere. For financial reasons,

however, the Stratosphere refused to provide her with the assistance she requested.

AIG petitioned for judicial review of the appeals officer's reversal. The district court denied the petition, and AIG now appeals to this court. On appeal, AIG argues that substantial evidence did not support the appeals officer's decision. Specifically, AIG claims that Hall's injury is not compensable because it resulted from her failure to comply with and disclose medical restrictions limiting her ability to lift heavy objects.

We "'review an administrative body's [final] decision for clear error or an arbitrary abuse of discretion.'" MGM Mirage v. Cotton, 121 Nev. 396, 398, 116 P.3d 56, 57 (2005) (quoting Construction Indus. v. Chalue, 119 Nev. 348, 352, 74 P.3d 595, 597 (2003)); see NRS 233B.135(3). "We will not disturb an agency's factual findings that are supported by substantial evidence." MGM Mirage, 121 Nev. at 398, 116 P.3d at 57 (citing Bullock v. Pinnacle Risk Mgmt., 113 Nev. 1385, 1388, 951 P.2d 1036, 1038 (1997)). Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion. State, Emp. Security v. Hilton Hotels, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986). Our review of an agency's decision regarding a question of law, however, is de novo. MGM Mirage, 121 Nev. at 398, 116 P.3d at 57.

Workers' compensation benefits are limited to claimants who sustain accidental injuries "arising out of and in the course of the[ir] employment." NRS 616A.020(1). An accident is statutorily defined as an "unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury." NRS 616A.030.

Here, the appeals officer heard Hall's testimony that she approached her supervisor and union regarding her back problem. She asked for help carrying the beer, but the Stratosphere claimed it could not afford to provide the help. Both Hall and her supervisor testified that Hall typically could not use the elevator to transport the beer because it had limited availability. Hall also presented medical evidence showing that her injuries were causally connected to her carrying the beer. Hall's testimony also established that on March 12, 2008, her back unexpectedly popped, causing her debilitating injury. Accordingly, we conclude that a reasonable mind would accept this evidence as adequate to conclude that Hall was injured due to a sudden, unforeseen event arising out of and in the course of her employment. Moreover, the fact that Hall revealed her back pain history to her employer does not render the injury expected and foreseen for workers' compensation purposes. The Stratosphere made no attempt to accommodate Hall and protect her from injury despite its knowledge of her condition.

AIG's reliance on Brown v. SIIS, 106 Nev. 878, 803 P.2d 223 (1990), and Rio Suite Hotel & Casino v. Gorsky, 113 Nev. 600, 939 P.2d 1043 (1997), is misplaced. In Brown, an appeals officer denied the claim because the claimant negligently aggravated her workplace injuries while participating in activities outside of work. 106 Nev. at 880, 803 P.2d at 225. In Gorsky, the claimant was injured at work, but his claim was denied because his workplace environment did not cause the injury. 113 Nev. at 601-02, 604, 939 P.2d at 1044, 1046. The claimant fell due to his multiple sclerosis rather than any work-related condition. Id. at 604-05, 939 P.2d at 1046.

Here, unlike Brown, Hall's claim is for an injury she sustained at work. The injury also did not result from her negligence. She warned her supervisors of her condition and requested help performing her work duties. Additionally, unlike Gorsky, Hall's work environment caused her injury. Her injury occurred while carrying beer down stairs to restock the bar. Thus, in contrast to Gorsky, Hall's preexisting medical condition was not the sole cause of her injury. Rather, the injury arose out of and in the course of her employment. Brown and Gorsky do not persuade us because their facts are distinguishable from this case. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, J.
Hardesty

_____, J.
Douglas

_____, J.
Pickering

cc: Hon. David B. Barker, District Judge
William F. Buchanan, Settlement Judge
Lewis Brisbois Bisgaard & Smith, LLP
Neeman, Mills & Palacios, Ltd.
Eighth District Court Clerk