

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROSENDIN ELECTRIC; AND CHARTIS
INSURANCE,
Appellants,
vs.
BRUCE HALL,
Respondent.

No. 62776

FILED

MAR 13 2015

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 matter. First Judicial District Court, Carson City; James Todd Russell, Judge.

Respondent Bruce Hall contends that he suffered an injury while working for appellant Rosendin Electric that resulted in skull surgery and subsequent complications. Appellant Chartis Insurance, Rosendin Electric's workers' compensation insurer, denied Hall's claim. On administrative appeal, the appeals officer concluded that Hall's injury was industrial and that the workers' compensation claim was compensable. The appeals officer also found that Hall's delay in filing his claim was excusable. Appellants filed a petition for judicial review, which the district court denied, and this appeal followed.

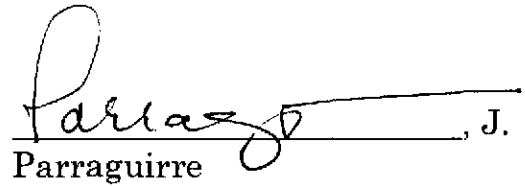
Having considered the parties' briefs and appendix, we conclude that substantial evidence supports the appeals officer's decision. The appeals officer found Hall's testimony regarding the work incident and injury to be credible, and Hall's C-1 form and Rosendin Electric's investigation report describe the incident as Hall testified. Dr. Morgan's

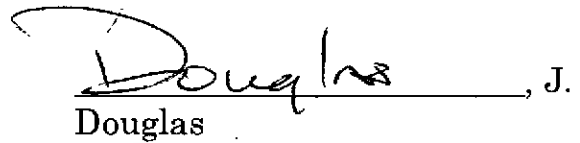
opinions support a causal connection between the incident and Hall's condition. Thus, the appeals officer's decision as to the compensability of the claim will not be disturbed. *Vredenburg v. Sedgwick CMS*, 124 Nev. 553, 557 & n.4, 188 P.3d 1084, 1087 & n.4 (2008) (noting that the appeals officer's decision will not be disturbed if supported by substantial evidence, which is evidence that a reasonable person could accept as adequately supporting a conclusion); *see also Nellis Motors v. State, Dep't of Motor Vehicles*, 124 Nev. 1263, 1269-70, 197 P.3d 1061, 1066 (2008) (explaining that this court will not reweigh the evidence, reassess witness credibility, or substitute its judgment for that of the appeals officer on questions of fact).

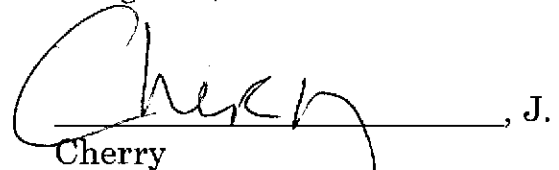
Although a claim for compensation must generally be filed within 90 days of the injury, *Barrick Goldstrike Mine v. Peterson*, 116 Nev. 541, 545, 2 P.3d 850, 852 (2000), an untimely filed claim may be excused for the employee's mistake or ignorance of fact or of law. NRS 616C.025. The record indicates that Hall did not begin to show symptoms until months after the injury, and that it was even later when Hall's physician causally connected his condition to that injury. Furthermore, shortly after Hall received the doctor's opinion regarding causation, the insurer sent documents to Hall indicating that a claim was filed by the employer on his behalf, which supports the appeals officer's determination that Hall mistakenly believed that his initial paperwork constituted a claim. Thus, substantial evidence supports the appeals officer's determination that the delay in filing was excusable. *See Nellis Motors*, 124 Nev. at 1269-70, 197 P.3d at 1066. Accordingly, the appeals officer did not abuse her discretion

in ordering that Hall's claim be accepted despite his untimely filing, and we affirm the district court's order denying judicial review. See *Vredenburg*, 124 Nev. at 557, 188 P.3d at 1087-88.

It is so ORDERED.


Parraguirre, J.


Douglas, J.


Cherry, J.

cc: Hon. James Todd Russell, District Judge
Madelyn Shipman, Settlement Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Nevada Attorney for Injured Workers/Carson City
Carson City Clerk