

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FIESTA HENDERSON/STATION  
CASINOS, INC.; AND YORK RISK  
SERVICES GROUP, INC.,  
Appellants,  
vs.  
MARIA CONTRERAS,  
Respondent.

No. 66527

**FILED**

OCT 21 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 of an appeals officer's decision regarding the scope and closure of a workers compensation claim. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

As the parties are familiar with the facts of this case, we need not detail them here. The issue before this court is whether we should reverse an appeals officer's decision expanding the scope of coverage of a workers' compensation claim, reversing the claim's closure, and ordering further medical testing for the claimant, respondent Maria Contreras. Appellants Fiesta Henderson/Station Casinos, Inc., and York Risk Services Group, Inc. (collectively "Fiesta") frame this question as being one of mixed fact and law. We disagree this is a question of law, as Fiesta fundamentally argues the appeals officer incorrectly interpreted the facts underlying the claim. Thus, to determine this issue, our review is limited to whether substantial evidence supports the appeals officer's findings. *Roberts v. SIIS*, 114 Nev. 364, 367, 956 P.2d 790, 791-92 (1998). In so

doing, we “may not substitute [our] judgment for that of the appeals officer on matters of weight, credibility, or issues of fact.” *Id.* at 367, 956 P.2d 792; *see also* NRS 233B.135.

In finding in favor of Contreras, the appeals officer relied on *Imperial Palace v. Dawson*, 102 Nev. 88, 715 P.2d 1318 (1986). We agree that case is controlling on the present facts, and that the substantial evidence supports the appeals officer’s decision.

In *Imperial Palace*, the claimant was injured in an automobile accident while traveling to receive treatment for a workplace injury covered by workers’ compensation. 102 Nev. at 89, 715 P.2d at 1318. The appeals officer found that the injuries sustained in the accident were work-related because the automobile accident resulted from the claimant’s seeking treatment for his work-related injury. *Id.* at 89-90, 715 P.2d at 1319. The Nevada Supreme Court affirmed, holding that where an employee is accidentally injured in the course of seeking medical care for a workplace injury, this is a foreseeable consequence of the workplace injury, and “the workers’ compensation system should pay for the treatment of a subsequent accidental injury to an employee which occurs while traveling to receive medical care.” *Id.* at 91, 715 P.2d at 1320.

Here, the parties do not dispute that Contreras suffered a workplace injury or that treatments for that injury are covered by workers’ compensation. Likewise, the parties agree Contreras received treatment for the workplace injury less than an hour and a half before she was injured in an automobile accident. The only question on this point is whether substantial evidence supports the appeals officer’s finding that the accident occurred while Contreras was traveling from her treatment appointment.

We agree with the district court that substantial evidence supports the appeals officer's factual findings. Contreras underwent an MRI at approximately 4:09 p.m. at a medical office located on Eastern Avenue, near Flamingo Road, in the central part of east Las Vegas. Thereafter, Contreras drove through Las Vegas during peak traffic times and was rear-ended just off the U.S. 95 and Cheyenne at 5:21 p.m., in the north western part of Las Vegas. It was reasonable for the appeals officer to determine that Contreras was traveling from the MRI appointment when the accident occurred, given the time it would take to complete the MRI, leave the medical office, and travel through Las Vegas during rush hour.

Fiesta further argues, however, the appeals officer reversibly erred in rescinding the claim's closure, and in scheduling Contreras with a medical provider and authorizing further medical testing. Again, substantial evidence supports the appeals officer's decision. Medical documents generated by Contreras' doctors and Contreras' own testimony regarding the ongoing nature of her pain and treatment support that the automobile accident injured her and that those injuries are ongoing and require further testing and treatment.<sup>1</sup> Thus, the record supports the appeals officer's decision the claim should remain open and workers' compensation should cover the continuing testing and treatments. We may not reweigh the evidence or substitute our judgment for that of the


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<sup>1</sup>We are aware that, to be compensable, work-related injuries generally must be testified to a degree of reasonable medical probability by a physician, see *United Expo. Serv. Co. v. SIIS*, 109 Nev. 421, 424-25, 851 P.2d 423, 425 (1993), but that does not appear to be an issue here where the record shows Contreras' doctors diagnosed injuries as stemming from the automobile accident.

appeals officer, NRS 233B.135(3), and where the appeals officer's decisions are supported by the substantial evidence, we must affirm the decision. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. David B. Barker, District Judge  
Janet Trost, Settlement Judge  
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas  
Clark & Richards  
Eighth District Court Clerk