

IN THE SUPREME COURT OF THE STATE OF NEVADA

CAESARS PALACE,  
Appellant,  
vs.  
MARTHA SANTORO,  
Respondent.

No. 37090

CAESARS PALACE,  
Appellant,  
vs.  
MARTHA SANTORO,  
Respondent.

No. 37311

FILED

JUL 10 2002

ORDER OF AFFIRMANCE

JAMES M. DUFFY  
CLERK OF SUPREME COURT  
DEPUTY CLERK

This is a consolidated appeal from (1) a district court order affirming an administrative appeals officer's determination in a workers' compensation case (Docket No. 37090), and (2) an order awarding attorney fees to the workers' compensation claimant (Docket No. 37311). On appeal, Caesars makes several arguments.

First, Caesars argues that the appeals officer's decision that Santoro proved, by a preponderance of the evidence, that her current condition arose out of and in the course of her employment is not supported by substantial evidence. We disagree. At the hearing before the appeals officer, Santoro presented a plethora of evidence that supports a determination in her favor. Hence, based on the evidence presented at the hearing, the appeals officer's decision is not arbitrary and capricious, as it is supported by substantial evidence.<sup>1</sup>

---

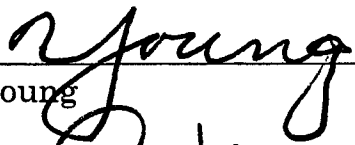
<sup>1</sup>NRS 233B.135(3); Tighe v. Las Vegas Metro. Police Dep't, 110 Nev. 632, 877 P.2d 1032 (1994); State, Emp. Security v. Hilton Hotels, 102 Nev. 606, 729 P.2d 497 (1986).


02-11780  
02-11782


Second, Caesars argues that the district court lacked jurisdiction to award Santoro attorney fees. We disagree. We conclude that the issue of attorney fees is collateral to and independent from the underlying issue before this court (i.e., whether the appeals officer's decision is supported by substantial evidence), and a decision on the attorney fees issue will not affect the merits of the appeal on the issue concerning the appeals officer's decision. Hence, we conclude that the district court had jurisdiction to award Santoro attorney fees.<sup>2</sup>

Finally, Caesars argues that if the district court had jurisdiction to award attorney fees, it abused its discretion in awarding them. We disagree. We conclude that the district court did not abuse its discretion by awarding Santoro attorney fees, as law and policy support its decision to do so.<sup>3</sup>

Accordingly, having considered Caesars' arguments, we  
ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

---

<sup>2</sup>Kantor v. Kantor, 116 Nev. 886, 8 P.3d 825 (2000).

<sup>3</sup>NRS 18.010(2)(b); NRS 616C.385; Nelson v. Peckham Plaza Partnerships, 110 Nev. 23, 866 P.2d 1138 (1994).

cc: Hon. Mark R. Denton, District Judge  
Santoro, Driggs, Walch, Kearney, Johnson & Thompson  
Swanson-Flangas, L.L.C.  
Clark County Clerk