IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEVIN PLOENSE,
Appellant,
vs.
LAS VEGAS METROPOLITAN POLICE DEPARTMENT; AND CCMSI,
Respondents.

No. 84695-COA

FILED

JUN 09 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kevin Ploense appeals from a district court order denying a petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Bita Yeager, Judge.

Ploense, a police officer previously employed by respondent Las Vegas Metropolitan Police Department (LVMPD), sought workers' compensation benefits for his heart disease pursuant to NRS 617.457. After LVMPD's claims administrator, respondent CCMSI, denied Ploense's claim, he sought review before a hearing officer, who affirmed CCMSI's determination. Ploense appealed that determination to an appeals officer, who likewise affirmed on grounds that Ploense failed to show that his heart disease was disabling. He then filed a petition for judicial review in the district court, which denied the petition, concluding like the appeals officer that Ploense failed to show disablement. This appeal followed.

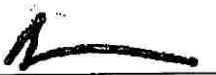
We review an appeals officer's decision in a workers' compensation matter in the same manner as the district court, evaluating whether the appeals officer clearly erred or abused her discretion. *Las Vegas Metro. Police Dep't v. Holland*, 139 Nev., Adv. Op. 10, 527 P.3d 958, 962 (2023). We defer to the appeals officer's fact-based conclusions of law and weighing of the evidence, but we review purely legal determinations de novo. *Id.*

On appeal, Ploense argues summarily that he showed disablement because a doctor had ordered him to be on "reduced activity" at work as a result of his heart disease. But Ploense fails to cite any authority whatsoever in support of this notion, not even NRS 617.060, the statute defining "[d]isablement" as "the event of becoming physically incapacitated by reason of an occupational disease arising out of and in the course of employment . . . from engaging, for remuneration or profit, in any occupation for which he or she is or becomes reasonably fitted by education, training or experience." And our supreme court, citing NRS 617.060 and NRS 617.420, has noted that a claimant is not physically incapacitated unless his occupational disease prevents him from working for five cumulative days in a 20-day period. *Manwill v. Clark County*, 123 Nev. 238, 244 n.18, 162 P.3d 876, 880 n.18 (2007). Moreover, a claimant under NRS 617.457 is not relieved of his obligation to show disablement. *Id.* at 243-44, 162 P.3d at 880. In light of Ploense's failure to address these authorities on

appeal or set forth any cogent argument as to why he believes being put on "reduced activity" amounts to disablement, we discern no basis for reversal of the district court's order, and we therefore affirm. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006).

It is so ORDERED.[1]

_____, C.J.
Gibbons



_____, J.
Bulla

_____, J.
Westbrook

[1]Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

cc: Hon. Bita Yeager, District Judge
Janet Trost, Settlement Judge
GGRM Law Firm
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas - Sahara Ave.
The State of Nevada Department of Administration, Hearings Division
Eighth District Court Clerk