



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY GOLD,
Appellant,
vs.
CITY OF LAS VEGAS AND CCMSI,
Respondents.

No. 90581-COA

ORDER OF AFFIRMANCE

Timothy Gold appeals from a district court order denying his petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Hon. Crystal Eller, Judge.

Gold, who was a firefighter for respondent, the City of Las Vegas, initiated a workers' compensation claim in 2021 for occupationally related asthma. The City's third-party administrator, respondent CCMSI (the insurer), denied liability for his claim. Gold appealed and bypassed review by a hearing officer. After retiring in April 2023, Gold requested his workers' compensation claim be accepted pursuant to NRS 617.455, and he appealed the insurer's de facto denial, again bypassing review by a hearing officer. Gold's treating physician provided a clarification letter in July 2023, indicating Gold was "able to continue working as a firefighter" but also stated that he could not perform fire suppression tasks and that Gold needed to use his inhaler to work. The physician further indicated that the restrictions were warranted on a permanent basis due to Gold's pulmonary condition.

In August 2023, Gold requested permanent total disability (PTD) benefits related to his January 29 claim effective from the day after he retired.

The insurer denied Gold's request, and a hearing officer affirmed the denial. Gold's appeals were consolidated before an appeals officer. After submitting evidence packets and written briefing, the appeals officer ultimately reversed the insurer's claim denial but affirmed the denial of PTD benefits. The appeals officer subsequently denied Gold's petition for rehearing. Gold filed a timely petition for judicial review, which the district court denied. This appeal followed.

On appeal, Gold challenges the appeals officer's decision affirming the denial of PTD benefits. "On appeal, this court's role is the same as the district court's: to review an appeals officer's decision for clear error or arbitrary abuse of discretion." *Las Vegas Metro. Police Dep't v. Holland*, 139 Nev. 96, 98, 527 P.3d 958, 962 (2023) (internal quotation marks omitted). An appeals officer's fact-based conclusions of law are entitled to deference and will not be disturbed if supported by substantial evidence, which is evidence that a reasonable person could accept as adequately supporting a conclusion. *Manwill v. Clark County*, 123 Nev. 238, 241 & n.4, 162 P.3d 876, 879 & n.4 (2007). But we "independently review the appeals officer's purely legal determinations, including those of statutory construction." *Id.* at 242, 162 P.3d at 879.

NRS 617.455 governs occupational lung disease claims for firefighters and other first responders. Subsection 8 provides that,

"A person who is determined to be:

- (a) Partially disabled from an occupational disease pursuant to the provisions of this section; and
- (b) Incapable of performing, with or without remuneration, work as a firefighter, police officer or arson investigator, may elect to receive the benefits

provided under NRS 616C.440 for a permanent total disability.”

NRS 617.455(8).¹

The parties dispute whether Gold’s restriction from performing fire suppression rendered him incapable of performing his work as a firefighter under NRS 617.455(8)(b) such that he was entitled to elect to receive PTD benefits. However, our review of the record reveals the appeals officer’s fact-based decision is supported by substantial evidence and thus Gold is not entitled to relief. *See Manwill*, 123 Nev. at 241, 162 P.3d at 879. The appeals officer concluded Gold established he was partially disabled due to asthma, but he failed to establish he was incapable of performing work as a firefighter. The appeals officer further determined that Gold’s physician reported he had a chronic condition and needed to continue to use inhalers to work, but that there was “[n]o evidence provided showing that the inability to work on fire suppression removes [Gold] from any and all work as a firefighter.”

Here, our review is confined to the record before the agency, which included Gold’s physician’s letter that explicitly stated he was able to continue working as a firefighter. *See Law Offs. of Barry Levinson, P.C. v. Milko*, 124 Nev. 355, 362, 184 P.3d 378, 384 (2008) (explaining that “appellate review of a final agency decision is “confined to the record before the agency”). Moreover, Gold’s C-3 and C-4 forms established he was a firefighter and paramedic, which further supports the appeals officer’s decision as it indicates his duties encompassed more than fire suppression. While Gold’s physician placed restrictions on his work—that he was unable to perform fire suppression tasks

¹We refer to the version of NRS 617.455(8) from 2017, which was in effect when Gold initiated his workers’ compensation claim in 2021.

and would need his inhaler to work—the appeals officer specifically found that Gold failed to establish he was incapable of performing work as a firefighter. This too was supported by the record, which does not reflect that Gold presented evidence regarding his responsibilities or the scope of his role that would demonstrate such restrictions rendered him incapable of performing his work, particularly in light of the aforementioned evidence from his physician and workers’ compensation forms. *Cf.* NRS 616A.010(2), (4) (providing that a workers’ compensation claim filed under NRS Chapter 617 must be decided on its merit and not according to the principle of common law that requires statutes governing workers’ compensation to be liberally construed, and that the provisions of NRS Chapter 617 must not be interpreted or construed broadly or liberally in favor of either the injured employee or the employer).

Given the evidence in the record, a reasonable person could conclude Gold failed to demonstrate he was incapable of performing work as a firefighter such that he was entitled to PTD benefits. *See Manwill*, 123 Nev. at 241 & n.4, 162 P.3d at 879 & n.4. And Gold has not shown that the appeals officer’s decision amounted to clear error or an abuse of discretion. *See Bright v. ADT Sec. Servs., Inc.*, No. 89262-COA, 2025 WL 3686951, at *2 (Nev. Ct. App. Dec. 18, 2025) (Order of Affirmance) (explaining that generally in a workers’ compensation matter “the employee bears the burden of proving his case by a preponderance of the evidence”); *see also State Indus. Ins. Sys. v. Hicks*, 100 Nev. 567, 569, 688 P.2d 324, 325 (1984) (stating that the party seeking relief in a workers’ compensation matter carries the burden of proof and that “burden is usually satisfied by a preponderance of the evidence”). Accordingly, given the aforementioned circumstances specific to this case, we

ORDER the judgment of the district court AFFIRMED.²



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Crystal Eller, District Judge
Janet Trost, Settlement Judge
GGRM Law Firm
Hooks Meng & Clement
Eighth District Court Clerk

²Insofar as Gold raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.