IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CLARK COUNTY SCHOOL DISTRICT; AND SIERRA NEVADA ADMINISTRATORS, INC.,
Appellants,
vs.
CAROLINE RANGEN,
Respondent.

No. 72748

ORDER OF REVERSAL

This is an appeal from a district court order granting judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; James Crockett, Judge.

Caroline Rangen sustained an industrial injury in January 2010 as an employee of the Clark County School District.[1] She filed workers' compensation claims with the district and its insurer, Sierra Nevada Administrators, Inc., (appellants) for injuries to her lower back and cervical spine. Appellants denied all but one of Rangen's claims. The parties eventually stipulated that appellants would compensate Rangen for her lower back injury and allow a neurosurgeon to examine Rangen's cervical spine condition as an independent medical expert.

After receiving the final report from the neurosurgeon and reviewing the evidence in the record, the appeals officer found that Rangen's 2010 injury was not a substantial contributing cause of her current cervical spine condition. The district court summarily granted Rangen's petition for judicial review, thereby reversing the appeals officer's decision. This appeal followed.

[1]We do not recount the facts except as necessary to our disposition.

"Like the district court, we review an appeals officer's decision in a workers' compensation matter for clear error or an abuse of discretion." *Vredenburg v. Sedgwick CMS*, 124 Nev. 553, 557, 188 P.3d 1084, 1087 (2008). "A decision that lacks support in the form of substantial evidence is arbitrary or capricious and, therefore, an abuse of discretion." *Finkel v. Cashman Prof'l, Inc.*, 128 Nev. 68, 72-73, 270 P.3d 1259, 1262 (2012) (quoting *Stratosphere Gaming Corp. v. Las Vegas*, 120 Nev. 523, 528, 96 P.3d 756, 760 (2004)). "An appeals officer's fact-based conclusions of law are entitled to deference and will not be disturbed if supported by substantial evidence." *Vredenburg*, 124 Nev. at 557, 188 P.3d at 1087. "Substantial evidence is evidence that a reasonable person could accept as adequately supporting a conclusion." *Id.* at 557 n.4, 188 P.3d at 1087 n.4 (internal quotation omitted). The court will not "substitute [its] judgment for that of the appeals officer as to the weight of the evidence on a question of fact," and our review of the facts is limited to the record before the appeals officer. *Id.* at 557, 188 P.3d at 1088.

Under NRS 616C.175(1), an insurer is responsible for the resulting condition of an employee who has a preexisting condition from a nonindustrial injury and subsequently sustains an industrial injury that aggravates, precipitates, or accelerates the preexisting condition. The insurer may avoid responsibility, however, by proving by a preponderance of the evidence that the industrial injury "is not a substantial contributing cause of the resulting condition." NRS 616C.175(1).

Here, the administrative record demonstrates that the neurosurgeon traced Rangen's cervical spine condition to the nonindustrial injury Rangen sustained in a 2006 automobile accident, and found that the 2010 injury caused no worsening or objective changes to Rangen's cervical

spine condition. The appeals officer relied on these findings to determine that Rangen's 2010 industrial injury was not a substantial contributing cause of her cervical spine condition under NRS 616C.175.[2] Our review of the record reveals that substantial evidence supports the appeals officer's decision, and we reverse the district court's order.[3]

It is so ORDERED.

_____, C.J.
Silver

_____, J.
Tao

_____, J.
Gibbons

cc: Hon. James Crockett, District Judge
Carolyn Worrell, Settlement Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Bertoldo Baker Carter & Smith
Eighth District Court Clerk

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[2]The appeals officer's application of the last injurious exposure rule, used to assign liability in cases of successive industrial injuries under different employers, was an error of law. *See Grover C. Dils Med. Ctr. v. Menditto*, 121 Nev. 278 at 284, 112 P.3d 1093 at 1098 (2005). Because the appeals officer ultimately applied the correct legal standard under NRS 616C.175 to resolve this case, however, the error was harmless. *See* NRCP 61 ("The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.").

[3]The district court found that "lack of substantial evidence supports the Appeals Officers' findings of fact and conclusion of law" but offered no further explanation.