

JUN 23 1995
Cami Studek
Clerk of Con

TRIBAL COURT OF THE

SHAKOPEE MDEWAKANTON SIOUX (DAKOTA) COMMUNITY

COUNTY OF SCOTT

STATE OF MINNESOTA

Daniel Joseph Wiedner,

Court File 056-95

Plaintiff,

v.

ORDER

Shakopee Mdewakanton Sioux
(Dakota) Community, and
Meadowbrook Insurance Group,

Defendant.

Summary

This appeal was filed, pro se, on June 19, 1995, from a decision of Hearing Examiner Candice E. Hektner, dated May 19, 1995. Upon review of the Hearing Examiner's Findings, Order, and Memorandum, and the Appellant's Request for Appeal, the decision of the Hearing Examiner is affirmed.

Facts

The Hearing Examiner found that the Appellant is employed as a blackjack dealer by Little Six, Inc. ("Little Six"), a corporation wholly owned by the Shakopee Mdewakanton Sioux (Dakota) Community, and that on January 9, 1995 the Appellant notified Little Six that he had sustained a repetitive trauma injury to his left and right wrists and forearms. The Hearing Examiner found that on February 3, 1995 Little Six, Inc. denied the Appellant's claim, on the basis that his symptoms did not result from work activity, but instead were due to previous work injuries sustained when the Appellant worked for other employers. The Hearing Examiner

ruled, however, that the Appellant's work for Little Six, Inc. significantly contributed to his injury, which has been diagnosed as lateral and medial epicondylitis. The Hearing Examiner also found that the Appellant's lateral and medial epicondylitis has not caused any loss of time from work beyond an initial period in January, 1995. The Hearing Examiner therefore awarded the Appellant weekly benefits for the period from January 9, 1995 to January 24, 1995, and awarded him benefits for the medical expenses incurred for his symptoms at Park Nicollet Medical Center in January and February, 1995.

The Appellant appealed, contending that if he were within the workers' compensation system of the State of Minnesota, he would be entitled to a greater recovery. Specifically, he argued that under the State's system he had been ruled to have achieved one hundred percent recovery from his previous injury, and that therefore under the State system his new injury should not be treated as having any pre-existing component.

Conclusions

Under the provisions of Section F.8. of the 1995 Workers' Compensation Ordinance of the Shakopee Mdewakanton Sioux (Dakota) Community ("the Ordinance")--

There shall be no further review of factual decisions made by a hearing examiner. A decision by a hearing examiner concerning legal issues, whether the result of an evidentiary hearing or more, may be appealed by either party to the Shakopee Mdewakanton Sioux (Dakota) Judicial Court. ...

We, therefore, have no authority to overrule any findings of fact of the Hearing Examiner in this matter, although we do have the authority to remand matters for further findings, if in our view such findings are required.

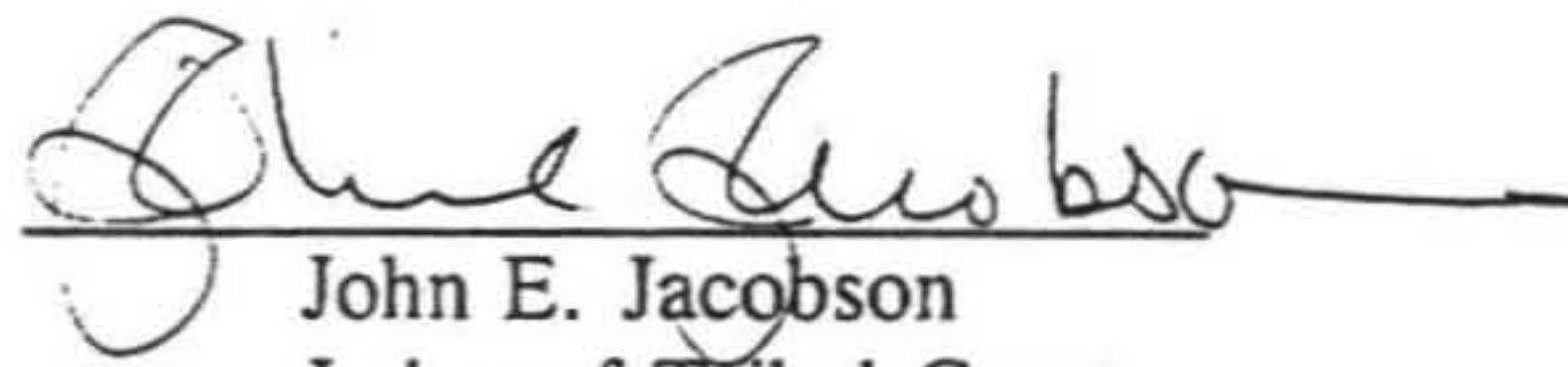
In this case, however, we believe the record is complete and amply supports the Hearing Examiner's decision. She found that the Appellant had not proved that he had sustained any loss

of time from work except for the initial period in January, 1995; and she therefore ordered partial disability benefits to be paid to him for that period, and declined to award any other disability benefits at this time. She also found that the Appellant had pre-existing injuries that contributed to his symptoms, but found that his present employment also contributed to the symptoms; and she awarded him his medical expenses for the period at issue.

Given her findings of fact, the Hearing Examiner's conclusions are entirely consistent with the Ordinance. The possibility that the State of Minnesota's plan for workers' compensation might award different or additional benefits--a possibility with which we neither agree nor disagree here--is irrelevant. The Shakopee Mdewakanton Sioux (Dakota) Community is a Federally acknowledged Indian tribe, with a government organized under Federal Indian Reorganization Act of 1934, 25 U.S.C. §476 (1994), and has chosen to eschew the workers' compensation system of the State of Minnesota and adopt its own plan for worker's compensation for its employees and for the employees of its business enterprises. This it plainly has the power to do. Bryan v. Itasca County, 426 U.S. 373 (1976); Tibbetts v. Leech Lake Reservation Business Committee, 397 N.W.2d 883 (Minn. 1988).

Accordingly, the decision of the Hearing Examiner is affirmed.

Date: June 22, 1995


John E. Jacobson
Judge of Tribal Court