STATE OF MINNESOTA

IN SUPREME COURT

A21-1745

Workers' Compensation Court of Appeals

McKeig, J.
Concurring, Anderson, J.

C. Jeremy Lagasse,

Relator,

vs.

Filed: November 30, 2022
Office of Appellate Courts

Larry Horton,

Respondent,

and

Aspen Waste Systems, Inc., and EMC Insurance Company,

Respondents.

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C. Jeremy Lagasse, Benjamin M. Kline, Aaron Ferguson Law PLLC, Roseville, Minnesota, for relator.

Kirk C. Thompson, Kirk C. Thompson Law Offices, P.A., Minneapolis, Minnesota, for respondent Larry Horton.

James S. Pikala, Emily A. LaCourse, Arthur, Chapman, Kettering, Smetak & Pikala, P.A., Minneapolis, Minnesota, for respondents Aspen Waste System, Inc. and EMC Insurance Company.

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## S Y L L A B U S

1. For purposes of allowable fees for legal services under the Workers' Compensation Act, an answer to a workers' compensation claim petition can serve as the basis for a genuine dispute under Minn. Stat. § 176.081, subd. 1(c) (2020), when it creates an authentic controversy between parties and the employer or insurer had sufficient time and information to take a position on liability.

2. The applicable standard when we review whether the WCCA properly substituted its own finding for a conflicting finding of the compensation judge is if there is any evidence in the record that a reasonable mind might accept as adequate to support the compensation judge's finding.

3. The Workers' Compensation Court of Appeals erred in substituting its findings for those of the compensation judge because the compensation judge's findings that a genuine dispute existed entitling the attorney to contingent attorney fees under Minn. Stat. § 176.081, subd. 1(c), were supported by substantial evidence.

4. The standard to award additional fees under Minn. Stat. § 176.081, subd. 7 (2020), is distinct from the standard to award contingency fees under Minn. Stat. § 176.081, subd. 1(c), and whether to award fees under each subdivision must therefore be analyzed separately.

Reversed and remanded to the compensation judge.

## O P I N I O N

McKEIG, Justice.

This case involves a section in the Minnesota Workers' Compensation Act, chapter 176, related to the award of attorney fees. Respondent Larry Horton was injured during his employment with respondent Aspen Waste Systems (Aspen) and sought permanent partial disability (PPD) benefits through Aspen's insurer, respondent EMC Insurance Company (the insurer). Horton retained relator C. Jeremy Lagasse to represent him in the matter. Lagasse now seeks contingent fees under Minn. Stat. § 176.081, subd. 1(c) (2020). The compensation judge found that Lagasse was entitled to contingent fees under subdivision 1(c) and that Horton was entitled to partial reimbursement of fees under subdivision 7 of the same statute. The Workers' Compensation Court of Appeals (WCCA) reversed both rulings. The WCCA recognized that the statutory right to a contingent fee applies only to " 'genuinely disputed claims or portions of claims,' " (quoting Minn. Stat. § 176.081, subd. 1(c)), and concluded that no genuine dispute existed between the parties. The WCCA thus correspondingly concluded that "[t]here is no basis for an award of fees to Mr. Lagasse on the undisputed facts of this case," and reversed both the award of contingent fees under Minn. Stat. § 176.081, subd. 1(c), as well as the partial reimbursement of fees to the employee under Minn. Stat. § 176.081, subd. 7 (2020).

We hold that the WCCA incorrectly applied Minn. Stat. § 176.081, subd. 1(c) and its standard of review, which required that the compensation judge's award of contingent fees under subdivision 1(c) be upheld. We also hold that the compensation judge and the WCCA incorrectly applied Minn. Stat. § 176.081, subd. 7. We therefore reverse the

WCCA and remand to the compensation judge for further proceedings consistent with this opinion as to Minn. Stat. § 176.081, subd. 7.

## FACTS

In June 2017, Horton was injured while working for Aspen after he was run over by a garbage truck. His injuries were both extensive and severe—Horton suffered numerous spinal fractures, rib fractures, right upper extremity fractures, and a permanent nerve injury, which left him unable to use his right arm and hand. Dr. Daniel Sipple treated Horton for his injuries. EMC, Aspen's insurer, requested that Dr. Sipple complete a Health Care Provider Report assessing Horton's injuries. On July 9, 2018, Dr. Sipple completed and returned the form to the insurer.

On August 8, 2018, the insurer sent a letter to Dr. Sipple requesting clarification on the rating he assigned for brachial plexopathy. The insurer stated that "Mr. Horton is able to drive and perform activities of daily living, which would require use of his right arm." The insurer therefore questioned the rating as the rating applies to only "[t]otal or complete loss of the brachial plexus, and [t]he presence of signs or symptoms of organic disease or injury, and [a]natomic loss or alteration."

On August 16, 2018, Horton retained representation of an attorney, Lagasse. Horton agreed that Lagasse would receive up to 20% of the benefits recovered. Following an unsuccessful mediation, Lagasse filed a claim petition on Horton's behalf on November 12, 2018.

Three days later, on November 15, the insurer filed an answer in response to the claim petition that admitted workers' compensation liability for some of the injuries

asserted. The answer also contained language denying part of Horton's claim. In particular, the insurer "specifically den[ied] the Employee is entitled to [PPD] benefits reflecting a rating of 64.2% to the body as a whole." The insurer also affirmatively alleged that Horton's injuries "may be the result of prior injuries and/or pre-existing degenerative processes," that Dr. Sipple "made an error in providing the [PPD] rating," and that it had not received requested clarification from Dr. Sipple. The answer concluded by asking the court to dismiss Horton's claim petition with prejudice.

At the insurer's request, Horton underwent an independent medical examination on January 11, 2019. The independent medical examination confirmed the findings of the original treating doctor and assessed a higher PPD rating.

On February 25, 2019, counsel for the insurer sent Lagasse an email stating that the insurer would "pay the PPD sought (and more) in the Claim Petition," and asked him to dismiss the Claim Petition. Lagasse's representation was subsequently terminated by Horton.

Between April 2019 and December 2020, Lagasse filed three separate statements of attorney fees. Each time, his requests were dismissed as premature, as Horton was still receiving temporary partial disability benefits, and thus the PPD benefits were not payable yet. When the PPD benefits became payable, Lagasse filed his fourth statement of attorney fees.

During this period, Horton requested his PPD benefits in a lump sum, while asking the insurer to not withhold any attorney fees. In response, the insurer filed a motion requesting the workers' compensation judge issue an order on the withholding of attorney

fees. The compensation judge ordered the attorney fees withheld "pending a determination regarding disputed attorney fees."

On April 1, 2021, the parties attended a hearing before the compensation judge to resolve the dispute over attorney fees. Following the hearing, the compensation judge concluded that Horton's PPD benefits were genuinely disputed; that Lagasse was entitled to a contingent fee under Minn. Stat. § 176.081, subd. 1(c) and to reimbursement of costs and disbursements; and that Horton was entitled to partial reimbursement of attorney fees under Minn. Stat. § 176.081, subd. 7.

Horton appealed to the WCCA, and the insurer filed a notice of cross-appeal, solely on the issue of the attorney fees awarded under subdivision 7. The WCCA reversed the compensation judge's award of attorney fees under both subdivision 1(c) and subdivision 7. The WCCA found that no genuine dispute existed over the payment of PPD benefits and that Lagasse took no actions that resulted in Horton being paid PPD benefits. The WCCA therefore concluded that "[t]here is no basis for an award of fees to Mr. Lagasse" and held that the compensation judge erred in awarding fees under both subdivisions.

Lagasse appealed to this court.

## ANALYSIS

This case involves disputes over two separate fees: contingency fees under Minn. Stat. § 176.081, subd. 1(c), and additional fees under Minn. Stat. § 176.081, subd. 7. We address each fee award in turn, and in doing so, also clarify the standard of review.

### I.

Under the Minnesota Workers' Compensation Act, attorneys are entitled to contingency fees based "solely upon genuinely disputed claims or portions of claims . . . ." Minn. Stat. § 176.081, subd.1(c).[1] The parties disagree as to whether a genuine dispute exists in this case specifically, but more fundamentally appear to disagree about what constitutes a genuine dispute. To determine whether a "genuine dispute" exists, we must first determine the statutory meaning of that term. Then, under the proper standard of review, we must apply that meaning to our analysis of the WCCA's decision.

#### A.

We start by analyzing the phrase "genuine[] dispute[]" as used in Minn. Stat. § 176.081, subd. 1(c). When an argument hinges on a legal issue, such as the interpretation

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[1] The relevant part of Minn. Stat. § 176.081, subd.1(c), states more fully that:

> In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed claims or portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. The existence of a dispute is dependent upon a disagreement after the employer or insurer has had adequate time and information to take a position on liability. Neither the holding of a hearing nor the filing of an application for a hearing alone may determine the existence of a dispute.

of a statute, we apply a de novo standard of review. *Braatz v. Parsons Elec. Co.*, 850 N.W.2d 706, 710 (Minn. 2014).

In interpreting statutes, we begin with the plain language of the text. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017). When a term is not defined by statute, we may use dictionary definitions. *Id.* at 436; *see also Shire v. Rosemount, Inc.*, 875 N.W.2d 289, 292 (Minn. 2016) (using dictionary definitions to determine the plain meaning of a provision in the Workers' Compensation Act).

"Genuine," is not defined within the statute, but is defined within the dictionary as "not spurious or counterfeit; authentic." *Genuine*, American Heritage Dictionary (New College Ed. 1980). "Dispute," is defined as "a conflict or controversy, esp. one that has given rise to a particular lawsuit." *Dispute*, Black's Law Dictionary (11th Ed. 2019). Therefore, "genuine dispute" means a conflict or controversy that is authentic.

The respondents and WCCA seem to claim, and Horton explicitly claims, that an answer is insufficient as a matter of law to create a genuine dispute. This ignores, however, Minn. Stat. § 176.081, subd. 1(c)'s focus upon "genuinely disputed *claims* or *portions of claims*." (Emphasis added.) The claim petition is the procedural vehicle for commencing an action regarding a dispute surrounding a claim for compensation. Minn. Stat. § 176.291(a) (2020) ("Where there is a dispute as to a question of law or fact in connection with a claim for compensation, a party may serve on all other parties and file a petition with the office stating the matter in dispute."). This petition must "state and include . . . . the nature and extent of the claim." Minn. Stat. § 176.291(a)(10). And the answer is what the other party is then required to file in response to the claim petition to make clear what

is in dispute. *See* Minn. Stat. § 176.321, subd. 1 (2020) ("Within 20 days after service of the petition, an adverse party shall serve and file an answer to the petition."). The answer is specifically required to "admit, *deny*, or affirmatively defend against the substantial averments of the petition, and shall state the contention of the adverse party with reference to the matter in dispute." Minn. Stat. § 176.321, subd. 2 (2020) (emphasis added). Thus, the statutory language in Minn. Stat. § 176.081, subd. 1(c) *supports* an answer being sufficient to give rise to a genuinely disputed claim; it certainly does not preclude it as a matter of law.

This is further confirmed by Minn. Stat. § 176.081, subd. 1(c) expressly providing that "[n]either the holding of a hearing nor the filing of an application for a hearing alone may determine the existence of a dispute." "[W]e do not add words or phrases to unambiguous statutes or rules." *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 604 (Minn. 2014). If the Legislature had intended an answer to be insufficient as a matter of law to establish a genuine dispute, it would have listed an answer in this provision. It did not. Accordingly, when an answer expresses an actual conflict between two parties, that answer alone could be sufficient to constitute a genuine dispute.

We do not, however, go so far as to hold that an answer will always categorically give rise to a "genuinely disputed claim[]" as a matter of law for purposes of Minn. Stat. § 176.081, subd. 1(c). Instead, the existence of a genuine dispute also involves a temporal component: the dispute must exist *after* an employer or insurer "has had adequate time and information to take a position on liability." Minn. Stat. § 176.081, subd. 1(c). Therefore, the existence of "genuinely disputed claims or portions of claims" hinges on two factors:

(1) is there an actual conflict between the parties as to any claim or portion of a claim? And (2) did the employer or insurer have sufficient time and information to take a position on liability? *See* Minn. Stat. § 176.081, subd. 1(c).

Our interpretation is further supported by the Minnesota Administrative Rules, which provide additional principles to guide the determination of whether a benefit was genuinely disputed. *See* Minn. R. 1415.3200, subp. 7 (2021). Though this court is not bound in matters of statutory interpretation by determinations of administrative agencies, "[t]he manner in which the agency has construed a statute may be entitled to some weight . . . where (1) the statutory language is technical in nature, and (2) the agency's interpretation is one of long-standing application." *Arvig Tel. Co. v. Nw. Bell Tel. Co.*, 270 N.W.2d 111, 114 (Minn. 1978). Here, the Minnesota Department of Labor and Industry has a set of long-standing, published rules guiding the interpretation of Workers' Compensation Act provisions. Under Rule 1415.3200, subp. 7(B), "[i]f there was no dispute concerning the rate, amount, duration, or eligibility for a benefit and the benefit was timely paid, the benefit may not be used to compute the fee." If a party raises an objection to any of the items listed in Rule 1415.3200, subp. 7(B), a genuine dispute exists for the purposes of Minn. Stat. § 176.081, subd. 1(c). A genuine dispute would therefore include a situation where a party admits liability but disagrees as to the precise rate of the benefit.

In contrast, the WCCA's and respondents' respective arguments for a different rule are without merit. The WCCA claimed that, in addition to the existence of a genuine dispute, an attorney must procure a benefit on behalf of the employee to be entitled to a

contingency fee. But this requirement is completely absent from Minn. Stat. § 176.081, subd. 1(c).[2] The WCCA cites no statutory support for this proposition. The only apparent support for this proposition are previous cases from the WCCA, which also contain no statutory support and are not binding on this court. *See Braatz*, 850 N.W.2d at 711 n.9 (holding that we are not bound by the legal conclusions of the WCCA); *see, e.g.*, *Weatherly v. Hormel Foods Corp.*, 77 W.C.D. 445 (Minn. WCCA 2017) (claiming, without citation, that to recover a contingency fee, "[t]he attorney must establish that benefits for the employee were obtained through the efforts of the attorney"). There may be policy arguments in favor of requiring a workers' compensation attorney to procure a benefit for their client to receive a contingent fee, but chapter 176 does not currently contain such a requirement; it is not this court's responsibility to fill holes created intentionally or inadvertently by the Legislature. *See Bruton v. Smithfield Foods, Inc.*, 923 N.W.2d 661, 666 (Minn. 2019).

Finally, respondents' argument that parties are not entitled to compensation when a dispute resolves by the time benefits were due is unpersuasive. Under Minn. R. 1415.3200 (2021), when evaluating whether a benefit was genuinely disputed, "[b]enefits timely paid

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[2] Furthermore, Minn. Stat. § 176.081, subd. 7, which provides for additional attorney fees, does require that an employee's attorney "successfully procures payment on behalf of the employee or who enables the resolution of a dispute." This language suggests that the Legislature knew how to add a requirement that an attorney procure a benefit as a condition to receiving fees and could have chosen to add such a requirement to subdivision 1(c). *See In re Hubbard*, 778 N.W.2d 313, 323 (Minn. 2010) (noting that the Legislature's action in one statute but inaction in another shows that the Legislature "knows how" to accomplish a particular objective if it wishes to do so).

may not be used to compute the fee *except where primary liability for the entire claim or eligibility for the benefit had been generally denied*." Minn. R. 1415.3200, subp. 7(H) (emphasis added). The rule necessarily implies that a dispute is *not* solely measured at the time when a benefit becomes payable. This implication makes sense as a matter of public policy: if attorneys lost contingency fees by settling claims before benefits became due, it would create a perverse incentive to delay settling claims. The insurer's interpretation would contravene the legislative intent behind Chapter 176. *See* Minn. Stat. § 176.001 (2020) (emphasizing that the Legislature's intent in adopting chapter 176 is to "assure the quick and efficient delivery of indemnity and medical benefits to injured workers").

B.

Having established the meaning of a genuine dispute, we review the WCCA's findings to determine whether a genuine dispute exists in the present case. We begin by clarifying our standard of review. Then, we apply our standard of review to assess the decision made by the WCCA.

1.

Our relationship to the WCCA differs from our relationship with other appellate courts. Consequently, the standard under which the WCCA reviews decisions made by workers' compensation judges, and the standard under which we review factual determinations of the WCCA, differs from how we typically apply a clear error standard. *See In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (stating that clear error review does not permit an appellate court to reweigh the evidence when reviewing for clear error).

We recognized and explained the unique nature of the WCCA in *Hengemuhle v. Long Prairie Jaycees*, 358 N.W.2d 54 (Minn. 1984). We noted that the Legislature expressly set forth the standard under which the WCCA reviews compensation judge decisions in Minn. Stat. § 176.421. *Id*. at 57–60 & n.1 (setting forth the amendments to section 176.421 made by 1983 Minn. Laws ch. 301, § 152); *see also* Minn. Stat. § 176.421 (2020). That statute expressly gives a party the right to appeal to the WCCA on the ground that the findings of fact and order were "unsupported by substantial evidence in view of the entire record as submitted." *See Hengemuhle*, 358 N.W.2d at 57 n.1, 59; *see also* Minn. Stat. § 176.421, subds. 1(3), 3(3). The statute also gives the WCCA the power to "substitute for the findings of fact made by the compensation judge" its own findings grounded in the "total evidence." *See Hengemuhle*, 358 N.W.2d at 57 n.1 (quoting amended statutory language); *see also* Minn. Stat. § 176.421, subd 6(3) (quoting amended statutory language). We further concluded that *our* review of WCCA decisions necessarily is shaped by the WCCA's unique standard of review of compensation judges' decisions. *Hengemuhle*, 358 N.W.2d at 61. Our review of WCCA decisions is also guided by separation of powers principles: "Our scope of review recognizes, too, that the Workers' Compensation Court of Appeals is a specialized agency of the executive branch, its members selected for their experience and expertise, and entrusted with deciding, in *consistent and appropriate fashion*, 'all questions of law and fact arising under the workers' compensation laws' brought to it on appeal." *Id*. (quoting Minn. Stat. § 175A.01, subd. 2 (1982)) (emphasis added).

In *Hengemuhle*, we reviewed 1983 amendments to the appellate review provisions of the Workers' Compensation Act, Minn. Stat. § 176.421. 358 N.W.2d at 57–61. Before 1983, the WCCA "was not required to defer to the judgment of the compensation judge. The [WCCA] could disregard the compensation judge's findings and substitute its own findings [even on questions of credibility] . . . . In other words, the [WCCA] was as much a trier of fact as the compensation judge." *Id.* at 58 (citations omitted). But under the amended statute, we held that "[t]he legislature intends the [WCCA] to be just that, an appeals court, operating as an appellate review body and leaving the basic factfinding to the compensation judge who presides at the evidentiary hearing." *Id*.

We then summarized the standard under which the WCCA reviews the order and findings of a compensation judge:

> The [WCCA] can no longer disregard the compensation judge's findings and order. The [WCCA], instead, determines if the findings and order are supported by substantial evidence in view of the entire record as submitted. If the findings and order are so supported, the [WCCA] affirms. If not, then, in that event only, the [WCCA] may substitute its own findings, or it may remand to the compensation judge for a rehearing.

*Id*. at 59. We clarified that the question the WCCA must ask is whether "in the context of the record as a whole, [the findings of the compensation judge] are supported by evidence that a reasonable mind might accept as adequate." *Id*.

We further explained that "in applying this standard, the [WCCA] looks not only at the evidence which supports the compensation judge's findings, but also at the opposing evidence and the evidence from which conflicting inferences might be drawn. The evidence, in a sense, is *weighed to determine its substantiality*." *Id*. (emphasis added).

In *Hengemuhle*, we acknowledged that what is meant by the substantial evidence standard "eludes any definitive explanation" and that the standard could be thought of as "an admonition to the [WCCA] not to treat the findings of the factfinder lightly, while at the same time the reviewing court remains cognizant of its own responsibility to exercise good judgment in reviewing what the evidence will reasonably sustain." *Id*. at 60. So, although the WCCA has somewhat broader scope to scrutinize the findings of a compensation judge than does a typical appellate court, the standard is still subject to limitation. For instance, the WCCA should defer to credibility determinations of the compensation judge. *Id*. at 59–60. And critical to this case, we stated:

> [I]n applying the substantial evidence standard, where the evidence is conflicting or more than one inference may reasonably be drawn from the evidence, the findings of the compensation judge are to be upheld. In other words, the [WCCA] is not to substitute its view of the evidence for that adopted by the compensation judge if the compensation judge's findings are supported by evidence that a reasonable mind might accept as adequate.

*Id*. at 60. This means that when the evidence in the record is conflicting, the WCCA cannot substitute its views of the evidence for those of the compensation judge unless the compensation judge's findings are not supported by evidence that a reasonable mind might accept as adequate.

In our review of workers' compensation cases, we must therefore first determine whether a conflict exists between the findings of the workers' compensation court and the findings of the WCCA. When a conflict exists—in which case the WCCA is *substituting* its findings for the findings of the compensation judge—such substitution by the WCCA is inappropriate and must be reversed, so long as there is any evidence in the record that a

reasonable mind might accept as adequate to support the position of the compensation judge. The WCCA must instead defer to the compensation judge's findings in such circumstances. When no conflict exists, either because the WCCA affirmed the findings of the compensation judge or the WCCA makes a finding on an issue about which the compensation judge made no finding, then we must uphold the WCCA's affirmance or factual finding unless it is manifestly contrary to the evidence. *Hengemuhle*, 358 N.W.2d at 61 (describing our standard of review of WCCA decisions and noting a two-pronged approach that includes determining if the WCCA properly applied its standard of review when "a case comes to us for review of *substituted findings*" (emphasis added)); *see also Polaschek v. Asbestos Products, Inc.*, 361 N.W.2d 37, 42 (Minn. 1985) (reversing the WCCA's decision to substitute its own finding when conflicting testimony supported both the WCCA and the compensation judge's finding).

In subsequent cases, we have clarified the scope of the application of this standard of review. In *Jacobowitch v. Bell & Howell*, 404 N.W.2d 270 (Minn. 1987), we again applied the rule that the WCCA cannot substitute its own finding for a specific, express finding of the compensation judge if the compensation judge's finding is supported by evidence in the record. But *Jacobowitch* extended the WCCA's deference to compensation judge findings on ultimate issues of fact. *Id.* at 274. We have since extended that deference to also cover implied findings of fact. *Gibberd v. Control Data Corp*., 424 N.W.2d 776, 783 (Minn. 1988) (holding that where a compensation judge's findings of fact contained implicit findings, the WCCA erred by rejecting those findings).

Consequently, following *Hengemuhle* and its progeny, the WCCA's scope of review is as follows: The WCCA reviews the entire record in the case (evidence both favorable and contrary to the findings made by the compensation judge). It exercises its judgment and weighs all the evidence to determine if the findings and order of the compensation judge are supported by substantial evidence. If the findings are supported by substantial evidence, then the WCCA must defer to the compensation judge. If they are not, then the WCCA may substitute its own findings. Further, if the compensation judge's findings are supported by substantial evidence, the WCCA's deferral to those findings still permits the WCCA to make *additional* findings that do not conflict with findings of the compensation judge, so long as those additional findings are also supported by substantial evidence in view of the entire record.

Our scope of review of the WCCA, premised on the understanding that we are reviewing the decision of the WCCA, an executive branch court created by the Legislature to oversee a remedial scheme created by statute, is as follows: If the WCCA affirms the findings of the compensation judge, or if it makes additional findings that do not conflict with the findings of the compensation judge, *Hengemuhle* instructs that we view the facts in the light most favorable to the affirmed or additional findings of the WCCA and that we cannot disturb those findings unless they are manifestly contrary to the evidence, or the evidence clearly requires reasonable minds to adopt a contrary conclusion. 358 N.W.2d at 60–61.

In cases of conflict between WCCA findings and workers' compensation court findings—the substitution cases—our standard of review is more complex. In such cases,

we have to answer two questions: (1) whether the WCCA was correct in setting aside the compensation judge's findings, which it may do there only if there is no evidence in the record that a reasonable mind might accept as adequate to support the compensation judge's finding, and (2) if the findings were properly set aside, whether the substituted findings of the WCCA should be affirmed under the manifestly contrary to the evidence standard. *Id*. at 61. We only reach the second question if the answer to the first question is yes; otherwise, we reverse. This rule on substitution applies to express findings by the compensation judge, implicit findings of the compensation judge when the compensation judge has specifically considered the issue, and to findings on ultimate questions of fact.

Any previous language in our cases that suggested that we view the facts in the light most favorable to the findings of the WCCA when determining whether the WCCA applied the correct standard of review in substituting its fact findings for those of the compensation judge is not the law.[3] Rather, when we review whether the WCCA properly substituted its own finding for a conflicting finding of the compensation judge, we ask whether there is any evidence in the record that a reasonable mind might accept as adequate to support the compensation judge's finding. We do not have any additional obligation to somehow

[3] We do not need to overturn any previous holdings to do so. *Hengemuhle*, the case when we announced how our standard of review of WCCA findings worked, was not a substitution case. In *Hengemuhle*, the WCCA affirmed the compensation judge's findings. 358 N.W.2d at 57. We reversed both the compensation judge *and* the WCCA, concluding that the compensation judge's findings—which the WCCA affirmed—were manifestly contrary to the evidence as a whole. *Id*. at 62–63. And in our most recent decision addressing our standard of review in workers' compensation cases, we similarly concluded that the substituted finding or additional finding of the WCCA was manifestly contrary to the evidence regardless. *Kubis v. Cmty. Mem'l Hosp. Ass'n*, 897 N.W.2d 254, 261 (Minn. 2017).

undertake that task while viewing the facts in the light most favorable to the WCCA's substituted finding. But if we determine that the WCCA applied the correct standard of review, we undertake our review of the record to see if the WCCA's substituted finding is manifestly contrary to the evidence by viewing the facts in the light most favorable to the WCCA's substituted finding.

2.

As already discussed, after stripping away the legally unsupported requirements added by the parties and the WCCA, the existence of a genuine dispute hinges on two factors: (1) is there an actual conflict between the parties as to any claim or portion of a claim? And (2) did the employer or insurer have sufficient time and information to take a position on liability? *See* Minn. Stat. § 176.081, subd. 1(c). We now address these two factors' application to this case, under the proper standard of review.

Even though the insurer ultimately paid out greater than the claim petition originally requested once it received the results of the independent medical examination, it is difficult to see how the dispute as articulated in the insurer's answer is anything but genuine. The answer states that Aspen and the insurer "specifically deny the Employee is entitled to permanent partial disability benefits reflecting a rating of 64.2% to the body as a whole." The answer also affirmatively alleged that Horton's injuries may be the result of pre-existing medical conditions and that Dr. Sipple erred in his PPD calculations. Furthermore, while no rule precludes an answer from serving as the sole support for the existence of a genuine dispute, other evidence in the record provides additional indicia of a genuine dispute. The insurer questioned the treating doctor's PPD rating in August 2018,

claiming that because Horton could perform certain activities, the rating given seemed inappropriate. In November, the parties attended an unsuccessful mediation. It was not until after the mediation that Lagasse filed a claim petition on Horton's behalf, which resulted in a denial of benefits by the insurer only three days later.

Though the evidence demonstrates that a conflict existed, we must also consider whether this dispute existed after the insurer and Aspen "had adequate time and information to take a position on liability."[4] *See* Minn. Stat. § 176.081, subd. 1(c). Here, the insurer had months to gather more information before Lagasse filed a claim petition on Horton's behalf. At any point between July 9, 2018, when the insurer received Dr. Sipple's Health Care Provider Report, and November 12, 2018, when the claim petition was filed after an unsuccessful mediation, the insurer could have conducted an independent medical examination. When Lagasse filed Horton's claim petition, the insurer had 20 days to respond. Minn. Stat. § 176.321, subd. 1. If the insurer still did not believe it had enough information to take a position on liability, it could have asked for an extension for up to an additional 30 days. *Id.*, subd. 3. The insurer also could have sought to mutually agree to

[4] The compensation judge made no explicit finding as to the adequacy of the time and information the insurer and Aspen had before taking a position on liability. But by finding a genuine dispute, the judge necessarily concluded the insurer and Aspen had adequate time and information to take a position on the matter. Correspondingly, by determining there was no genuine dispute on the basis that the insurer and Aspen were still waiting for necessary information, the WCCA substituted its own findings for the compensation judge's. It would have, however, been best practice for the compensation judge to have made such an explicit finding. *See State v. Wigham*, 967 N.W.2d 657, 665 n.6 (Minn. 2021) (stating that express findings "provid[e] more transparency for all the parties involved and allows for more effective appellate review.").

an extension with Horton to get the information it claimed it needed. *Id.* Nothing in the record suggests the insurer pursued any of these options.

Instead, the insurer filed an answer denying liability just three days after Lagasse filed the claim petition. It is difficult to understand how the insurer and the WCCA can claim that the insurer did not have adequate time to take a position on liability when they, in fact, took a position on liability (and much more quickly than they needed to). It is even more puzzling considering that the insurer made no attempt to either get more information or time to respond, nor claim in its answer that the time and information it had was insufficient.[5]

Although the WCCA does not disagree with the compensation judge's underlying factual findings, it draws very different inferences from those facts. But even if the WCCA's inferences were supported by the evidence, the compensation judge's interpretation of the facts, ultimately leading to the conclusion that a genuine dispute existed, were also supported by substantial evidence. Because a reasonable mind might accept the evidence in the record as adequate to support the compensation judge's finding, the WCCA was required to uphold the compensation judge's findings. *See Gibberd*,

[5] Though the answer does contain one statement that "Insurer has requested clarification from Dr. Sipple with respect to the rating for brachial plexopathy, and have not yet had a response," it does not follow that the insurer did not have enough information to take a position on liability. While the insurer asserts that it did not receive clarification, it does not argue that it therefore did not have sufficient information to take a position on liability under Minn. Stat. § 176.081, subd. 1(c). Furthermore, the answer contains other specific claims, including that the doctor erred and that Horton's conditions may be the result of prior injuries.

424 N.W.2d at 779, 784. The WCCA's denial of Lagasse's contingent attorney fees based on its substituted finding that no genuine dispute existed was therefore error. *See id.*

II.

Lastly, under Minn. Stat. § 176.081, subd. 7, an employee may receive partial reimbursement of contingent attorney fees that would otherwise come out of the benefit award if certain statutory requirements are met. Namely, the employee must demonstrate that the employer or insurer unsuccessfully resisted payment and that an attorney procured payment or resolved the dispute on their behalf. Minn. Stat. § 176.081, subd. 7.[6] The compensation judge awarded these fees, finding that the insurer unsuccessfully resisted payment of PPD based on its analysis of whether a "genuine dispute" existed. The WCCA

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[6] Minnesota Statutes section § 176.081, subd.7, states in full:

> If the employer or insurer files a denial of liability, notice of discontinuance, or fails to make payment of compensation or medical expenses within the statutory period after notice of injury or occupational disease, or otherwise *unsuccessfully resists the payment of compensation or medical expenses*, or unsuccessfully disputes the payment of rehabilitation benefits or other aspects of a rehabilitation plan, *and the injured person has employed an attorney at law, who successfully procures payment on behalf of the employee* or who enables the resolution of a dispute with respect to a rehabilitation plan, *the compensation judge, commissioner, or the Workers' Compensation Court of Appeals upon appeal*, upon application, *shall award to the employee against the insurer or self-insured employer or uninsured employer, in addition to the compensation benefits paid or awarded to the employee, an amount equal to 30 percent of that portion of the attorney's fee which has been awarded pursuant to this section that is in excess of $250. This subdivision shall apply only to contingent fees payable from the employee's compensation benefits*, and not to other fees paid by the employer and insurer, including but not limited to those fees payable for resolution of a medical dispute or rehabilitation dispute, or pursuant to section 176.191.

(Emphasis added.)

summarily reversed this part of the award without including any language specifically addressing Minn. Stat. § 176.081, subd. 7.

When interpreting statutory provisions within the Workers' Compensation Act, this court applies a de novo standard of review. *Dykhoff v. Xcel Energy*, 840 N.W.2d 821, 825–26 (Minn. 2013). This court likewise reviews questions of law de novo. *Hale*, 654 N.W.2d at 123.

Minnesota Statutes § 176.081, subd. 7, requires (1) an employer to unsuccessfully resist payment, and (2) an attorney to procure a benefit for their client. The compensation judge appears to have conflated *contingent* attorney fees under Minn. Stat. § 176.081, subd. 1(c), and *additional* attorney fees under Minn. Stat. § 176.081, subd. 7, into one assessment. The compensation judge's consideration of fees under subdivision 7 imports his "genuine dispute" analysis under subdivision 1(c) by stating that "the employer/insurer, as discussed above, unsuccessfully resisted payment of PPD, and an award under this subdivision is warranted." The WCCA also did not analyze subdivision 7 fees but simply summarily reversed the compensation judge's award of the fees. Without any analysis, it is unclear whether the WCCA similarly conflated the analysis under subdivision 1(c) with the analysis under subdivision 7, or instead merely appreciated that any reimbursement to the employee of attorney fees under subdivision 7 first requires an award of contingent fees under subdivision 1, which the WCCA had already reversed.

Given our reversal of the WCCA and order that the compensation judge's award of contingent fees under Minn. Stat. § 176.081, subd. 1(c) be upheld, the issue of the employee's entitlement to reimbursement of some portion of the fees under subdivision 7

must be addressed. Any blurring of these two subdivisions by the compensation judge and WCCA is error: the two subdivisions employ different language and contain different requirements. As a matter of statutory interpretation, this court presumes that when the Legislature employs different phrases, the phrases have different meanings. *State v. Thompson*, 950 N.W.2d 65, 69 (Minn. 2020). Subdivision 1(c) requires the presence of a "genuine dispute." *See* Minn. Stat. § 176.081, subd. 1(c). In contrast, subdivision 7 requires an employer or insurer to "unsuccessfully resist payment." *See id.*, subd. 7. By failing to properly address subdivision 7 specifically, the compensation judge and WCCA both erred.

The insurer argues that when Lagasse and Horton failed to raise the issue of fees under Minn. Stat. § 176.081, subd. 7 to this court, they waived any argument regarding the additional attorney fees. But the compensation judge and the WCCA may have created the incorrect impression that subdivision 7 fees would automatically follow an award of contingency fees. Neither the compensation judge nor the WCCA properly applied subdivision 7. We therefore reverse and remand for findings on the subdivision 7 fees.

**CONCLUSION**

For the foregoing reasons, we reverse the decision of the Workers' Compensation Court of Appeals and remand to the compensation judge for findings on fees under Minn. Stat. § 176.081, subd. 7, consistent with this opinion.

Reversed and remanded.

C O N C U R R E N C E

ANDERSON, Justice (concurring).

I concur in the result.