



Ankin Law Office LLC

Protecting the Rights of Injured Workers

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Findings Support Worker's Claim That His COPD Was Work-Related

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The Appellate Court of Illinois, Fourth District, recently considered the denial of a workers' claim for workers' compensation benefits where the [Illinois Workers' Compensation Commission](#) concluded that his Chronic Obstructive Pulmonary Disease was caused solely by his cigarette smoking. In *Gross v. Illinois Workers' Compensation Commission*, No. 4-10-0615WC, at issue was whether the claimant's COPD was caused, in part, by his inhalation of coal dust while working as a coal miner.

At the hearing, the Commission gave the testimony of an expert witness expert witness, Dr. Renn, great weight and accepted his testimony, offered on behalf of Gross' employer, that the claimant's COPD was caused solely by his smoking habit. The intermediate appellate court agreed and upheld the Commission's conclusion that Gross' COPD was unrelated to his work as a coal miner.

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On appeal, Gross argued that the Commission ignored the testimony of his expert, Dr. Houser, who concluded that Gross' work contributed to his COPD and that the Commission also "erred in accepting the opinion of Dr. Renn that coal dust exposure did not contribute to cause his COPD when Dr. Renn failed to give an adequate explanation of the basis of his opinion."

After reviewing the legal standards applicable to expert opinions, the Fourth Circuit agreed with Gross, holding that the evidence did not support the conclusion that Gross' work as a coal miner did not contribute to his COPD:

We do not believe that there is sufficient evidence in the record to support the opinion of Dr. Renn that the claimant's significant history of inhalation of coal dust was not a contributing or aggravating cause of his COPD. The employer has simply not offered an adequate explanation or factual basis for a determination that the sole cause of the claimant's obstructive lung disease is cigarette smoking. We cannot say what our decision would be under circumstances where the claimant did not have significant exposure to both coal dust and cigarette smoking. However, on this record, where the undisputed evidence is that the claimant had nearly 40 years of exposure to both coal dust and cigarette smoke, we believe that the Commission's finding that his COPD was solely caused by cigarette smoking is against the manifest weight of the evidence.

Accordingly, the court reversed the decision denying workers' compensation benefits and remanded the case to the Commission for additional consideration, thus keeping his claim for workers' compensation benefits alive.

Howard Ankin of Ankin Law Office LLC (www.ankinlaw.com) handles workers' compensation and personal injury cases. Mr. Ankin can be reached at (312) 346-8780 and howard@ankinlaw.com.

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