

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

**APRIL 9, 1996**

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 95-2370-FT**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

**GLENN STATEZNY,**

**Plaintiff-Appellant,**

**v.**

**LABOR AND INDUSTRY REVIEW  
COMMISSION, DON SCHROEDER  
FARMS, LTD., and THRESHERMEN'S  
MUTUAL INSURANCE COMPANY,**

**Defendants-Respondents.**

APPEAL from a judgment of the circuit court for Langlade County: JAMES P. JANSEN, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Glenn Statezny appeals a judgment affirming a decision of the Labor and Industry Review Commission that Statezny suffered

no permanent partial disability.<sup>1</sup> He argues that LIRC's decision was not "grounded in a reasoned analysis and supported by credible evidence" and that this court should adopt a rule giving treating physicians a presumption of greater credibility than physicians hired for litigation. We reject these arguments and affirm the judgment.

This court must uphold LIRC's finding because it is supported by credible and substantial evidence. See § 102.23(6), STATS. Dr. David Ketroser examined Statezny twice and concluded that he exaggerated his physical condition and put forth poor effort on muscle testing. Dr. Ketroser concluded: "Since the only evidences of disfunction at this time are due to patient exaggeration, there is no permanent disability due to the aforementioned factors." This evidence is sufficient to raise a legitimate doubt that Statezny suffered a permanent injury. LIRC was therefore required to deny his claim. See *Leist v. LIRC*, 183 Wis.2d 450, 457, 515 N.W.2d 268, 270 (1994).

Statezny argues that Dr. Ketroser's testimony was contradicted by numerous other medical witnesses. Because LIRC is the sole judge of the weight and credibility of the witnesses' testimony, its findings on disputed medical testimony are conclusive. *Semons Dep't Store v. DILHR*, 50 Wis.2d 518, 528-29, 184 N.W.2d 871, 876 (1971). Statezny also faults LIRC for rejecting part of Dr. Ketroser's opinion but adopting other parts. LIRC, not the reviewing court, is responsible for reconciling inconsistencies and conflicts in the testimony and may base its decision on any part of the testimony that it finds credible. See *Valadzic v. Briggs & Stratton Corp.*, 92 Wis.2d 583, 598, 286 N.W.2d 540, 547 (1979).

Statezny argues that LIRC did not provide the required "reasoned analysis" to support its decision. Additional analysis is necessary when LIRC disregards unrefuted expert medical testimony. In this case, LIRC's decision was supported by Dr. Ketroser's testimony. LIRC is only required to make findings of ultimate fact as distinguished from evidentiary fact. See *Goranson v. DILHR*, 94 Wis.2d 537, 546, 289 N.W.2d 270, 275 (1980).

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<sup>1</sup> This is an expedited appeal under RULE 809.17, STATS.

Finally, Statezny's suggestion that this court should create a presumption in favor of a treating physician was rejected in *Conradt v. Mt. Carmel School*, 197 Wis.2d 60, 67-70, 539 N.W.2d 713, 716-17 (1995). Published decisions of any panel of this court have state-wide precedential effect. See *In re Court of Appeals*, 82 Wis.2d 369, 371, 263 N.W.2d 149, 149-50 (1978).

*By the Court.* – Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.