

NO. 26322

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

DONNALEAH P. GALDEIRA, Claimant-Appellant
vs.
STUDENT TRANSPORTATION, INC., and
CLAIMS MANAGEMENT, INC.,
Employer/Insurance Carrier-Appellee

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STATE OF HAWAII

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APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 99-086(H) (1-98-00533))

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Foley, and Nakamura, JJ.)

In this workers' compensation case, Claimant-Appellant Donnaleah P. Galdeira (Galdeira or Claimant) appeals from the Decision and Order filed on December 9, 2003, by the Labor and Industrial Relations Appeals Board (the Board). The Board's decision adopted the arguments presented by Employer-Appellee Student Transportation, Inc. (Student Transportation) and its workers' compensation administrator, Administrator-Appellee Claims Management, Inc. (Claims Management).¹

On May 19, 1998, Galdeira was injured in a work-related accident when a car rear-ended the school bus she was driving. On appeal, Galdeira argues that the Board erred in determining that: 1) Galdeira was not entitled to temporary total disability

¹ The case caption erroneously identifies Claims Management, Inc. (Claims Management) as "Insurance-Carrier Appellee." Student Transportation, Inc. (Student Transportation) is self-insured and Claims Management is Student Transportation's third-party administrator in this case.

(TTD) benefits after November 4, 1998; 2) Galdeira did not sustain any permanent partial disability (PPD) as a result of her May 19, 1998, work injury; 3) Student Transportation and Claims Management (collectively, the Employer) were entitled to a credit for overpayments of TTD benefits they made after November 4, 1998; 4) the Employer was not liable for medical treatments by Dr. McSherry, which Galdeira received after November 4, 1998, or for post-November 4, 1998, psychiatric treatments by Dr. Presbrey, which Galdeira sought because of her emotional reaction to reading Dr. Smith's independent medical examination (IME) report; 5) the Employer was not liable for a May 25, 1999, MRI scan; 6) Galdeira did not sustain a bilateral hip injury as a result of her work accident, and alternatively, Galdeira's claim for bilateral hip injury was barred by the two-year statute of limitations set forth in Hawaii Revised Statutes (HRS) HRS § 386-82 (1993); and 7) pursuant to HRS § 386-8 (1993), the Employer was entitled to a future credit of \$8,305.04 based on the net amount Galdeira received in settling her lawsuit against the person who rear-ended her bus.

After careful review and consideration of the record and the briefs submitted by the parties, we hold as follows:

1. The primary basis for the Board's decision was its determination that Galdeira did not sustain a significant injury in the May 19, 1998, accident and that she had returned to pre-injury status by November 4, 1998. There was substantial evidence to support these determinations as well as the Board's

related determinations that: 1) Galdeira was not entitled to TTD benefits after November 4, 1998; 2) Galdeira did not sustain any PPD as a result of her May 19, 1998, work injury; 3) the Employer was entitled to a credit for overpayments of TTD benefits it made after November 4, 1998; 4) the Employer was not liable for medical treatments by Dr. McSherry or Dr. Presbrey; and 5) the Employer was not liable for the May 25, 1999, MRI scan. Igawa v. Koa House Restaurant, 97 Hawai'i 402, 407-10, 38 P.3d 570, 575-78 (2001). We therefore affirm the Board's rulings on these matters.

2. There was substantial evidence to support the Board's determination that Galdeira did not sustain a bilateral hip injury as a result of the May 19, 1998, work accident. Id. Relevant and credible evidence was adduced, including the opinions of medical experts, to show that Galdeira's hip condition was not work-related and did not arise out of the May 19, 1998, accident. Because we affirm the Board's ruling that Galdeira's hip condition was not work-related, we do not address the Board's alternative ruling that Galdeira's claim for bilateral hip injury was untimely and barred by the two-year statute of limitations set forth in HRS § 386-82.

3. Galdeira filed a lawsuit against the driver of the car that rear-ended her bus, and she received a \$20,000 settlement. The net amount Galdeira received from the \$20,000 settlement was \$8,305.04. The Board correctly determined that under HRS § 386-8, the Employer was entitled to a \$8,305.04

credit against any future workers' compensation benefits the Employer may owe as a result of Galdeira's May 19, 1998, work injury.

IT IS HEREBY ORDERED that the December 9, 2003, Decision and Order filed by the Labor and Industrial Relations Appeals Board is affirmed.

DATED: Honolulu, Hawai'i, September 1, 2006.

On the briefs:

James Ireijo
for Claimant-Appellant.

Scott R. Devenney,
Ann K. Kuwaye
(Devenney and Kuwaye)
for Employer-Appellee and
Administrator-Appellee.


Chief Judge


Associate Judge


Associate Judge