

**IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT**

KEVIN KENNELTY	: No. 349 WAL 2006
	:
v.	: Petition for Allowance of Appeal from the
	: Order of the Commonwealth Court
WORKERS' COMPENSATION APPEAL	: entered May 31, 2006, at No. 2357 CD
BOARD (SCHWAN'S HOME SERVICE,	: 2005, reversing the Order of the Workers'
INC.)	: Compensation Appeal Board entered
	: November 2, 2005, at No. A05-0492 and
PETITION OF: SCHWAN'S HOME	: remanding.
SERVICE, INC.	:

ORDER

PER CURIAM

AND NOW this 14th day of November 2007, the Petition for Allowance of Appeal is granted. The order of the Commonwealth Court dated May 31, 2006, is reversed. The WCJ determined that the testimony of the employees of Schwan's Home Service, Inc., was credible to the extent they testified that the frequency of occurrences of work-related incidents experienced by Petitioner was normal for their specific industry; the Commonwealth Court is not free to disturb this credibility determination based on competent evidence. See Daniels v. WCAB (Tristate Transp.), 828 A.2d 1043, 1052 (Pa. 2003) (holding that the WCJ is the ultimate finder of fact and the exclusive arbiter of credibility and evidentiary weight). See also RAG (Cyprus) Emerald Resources, L.P. v. WCAB (Hopton), 912 A.2d 1278 (Pa. 2007) (holding that the aggravation of a pre-existing psychic injury by a psychic stimulus is compensable pursuant to workers' compensation laws only where credible evidence demonstrates that such injury stems from an abnormal working condition). Additionally, Employer's Petition for Supersedeas is denied as moot.

Mr. Justice Saylor filed a Concurring Statement.