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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

MARIA C. NEYOY DE JIMENEZ, *Petitioner*,

v.

THE INDUSTRIAL COMMISSION OF ARIZONA, *Respondent*,

BODEGA LATINA CORPORATION, *Respondent Employer*,

SAFETY NATIONAL CASUALTY, *Respondent Carrier*.

No. 1 CA-IC 18-0004
FILED 12-18-2018

Special Action - Industrial Commission

ICA Claim No. 20162-530348

Carrier Claim No. 6358548

The Honorable Gaetano J. Testini, Administrative Law Judge

AFFIRMED

COUNSEL

Maria Neyoy De Jimenez, Glendale
Petitioner

Industrial Commission of Arizona, Phoenix
By Stacey Ann Rogan
Counsel for Respondent

Lundmark, Barberich, LaMont & Slavin, P.C., Phoenix
By Lisa M. LaMont, Danielle S. Vukonich
Counsel for Respondent Employer/Carrier

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MEMORANDUM DECISION

Judge Randall M. Howe delivered the decision of the Court, in which Presiding Judge Diane M. Johnsen and Judge Maria Elena Cruz joined.

H O W E, Judge:

¶1 Maria Neyoy De Jimenez appeals the Industrial Commission of Arizona's ("ICA") award and decision upon review closing her industrial claim without finding permanent impairment. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Jimenez worked for Bodega Latina Corporation as a baker. According to Jimenez, her job responsibilities included using a dough machine that required her to "press two handles with her hands, for up to two minutes at a time[.]" She was also required to lift "50[-]pound sacks of flour and heavier sacks of other ingredients[.]" In July 2016, she began experiencing intermittent numbness and tingling in her hands. She then filed a workers' compensation claim, which respondent carrier, Safety National Casualty, accepted. Jimenez claimed various symptoms, including trouble sleeping, along with pain and numbness in her arms, hands, and fingers. She attributed those symptoms primarily to her using the dough machine.

¶3 Jimenez sought treatment from Dr. Sebastian Ruggeri, an orthopedic surgeon, who recommended that Jimenez undergo electrodiagnostic studies, which revealed bilateral median neuritis and tendonitis in both of Jimenez's hands. Dr. Ruggeri treated Jimenez with cortisone injections and anti-inflammatory medication. Despite the treatment, Jimenez claimed that she continued to feel the same discomfort in her hands.

¶4 Dr. John Hayden, Jr., a board-certified physician who had completed fellowships in orthopedic, hand, and microvascular surgery, performed an independent medical evaluation ("IME") of Jimenez. After his evaluation, Dr. Hayden diagnosed multiple conditions but determined that Jimenez's symptoms and diagnoses—including those contained in Dr. Ruggeri's reports—were unrelated to her work as a baker. Moreover, he did

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not recommend any surgical interventions or further medical treatment. Following the IME, Safety National terminated Jimenez's medical benefits and closed her claim with no permanent impairment. Jimenez timely protested the termination and requested an ICA hearing.

¶5 At the subsequent evidentiary hearing, an administrative law judge ("ALJ") heard testimony from Jimenez and Drs. Ruggeri and Hayden. Dr. Ruggeri testified that Jimenez suffered from neuritis and tendonitis, which he suspected were caused by Jimenez's work activities. He further opined that Jimenez had not reached maximum medical improvement and should be considered for supportive care. In contrast, Dr. Hayden did not agree with a tendonitis diagnosis, opined that the neuritis was not work-related, and found that Jimenez had "reached maximum medical improvement without permanent impairment or the need for supportive medical maintenance benefits." Moreover, citing current medical literature, Dr. Hayden related Jimenez's condition to her gender, age, and obesity, rather than her work activities.

¶6 Noting the conflicting medical evidence, the ALJ specifically adopted Dr. Hayden's opinions and conclusions. The ALJ therefore determined that Jimenez was stationary without permanent impairment as of November 15, 2016. Jimenez timely requested administrative review, and the ALJ affirmed the award. Jimenez then timely sought special action review in this Court.

DISCUSSION

¶7 Jimenez argues that the ALJ erred by adopting Dr. Hayden's medical opinions instead of Dr. Ruggeri's. We view the evidence in the light most favorable to sustaining the award and we will not disturb the decision if reasonable evidence supports the ALJ's findings. *Lovitch v. Indus. Comm'n of Ariz.*, 202 Ariz. 102, 105 ¶ 16 (App. 2002). The ALJ resolves any conflicts in medical evidence, and "his resolution will not be disturbed unless it is wholly unreasonable." *Ortega v. Indus. Comm'n*, 121 Ariz. 554, 557 (App. 1979). The ALJ is better able than this Court to resolve issues of credibility and consistency of evidence. *S.L.C. Leasing v. Indus. Comm'n*, 25 Ariz. App. 366, 367 n.* (App. 1975).

¶8 Here, sufficient evidence in the record supports the ALJ's findings and award. The record demonstrates that although Drs. Ruggeri and Hayden reached different conclusions regarding Jimenez's physical state and her need for treatment, the ALJ found that Dr. Hayden's medical opinions were more persuasive. This resolution of the medical conflict was

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not “wholly unreasonable” because Dr. Hayden was undeniably experienced in orthopedic medicine and his opinions were amply supported by current medical literature, diagnostic tests, and his review of pertinent medical records. *See Carousel Snack Bar v. Indus. Comm'n of Ariz.*, 156 Ariz. 43, 46 (1988) (“Many factors enter into a resolution of conflicting evidence, including whether or not the testimony is speculative, consideration of the diagnostic method used, qualifications in backgrounds of the expert witnesses and their experience in diagnosing the type of injury incurred.”). Furthermore, as the record reflects, Dr. Hayden’s opinions were sufficient to support the ALJ’s determination that Jimenez’s injuries did not require further medical care and were medically stationary without permanent impairment. Therefore, because the medical conflict was resolved “in such a way that [the ALJ’s] findings are reasonably supported by the evidence[,]” we will not disturb the ALJ’s findings and award. *See Condos v. Indus. Comm'n*, 92 Ariz. 299, 301–02 (1962).

CONCLUSION

¶9 For the foregoing reasons, we affirm.



AMY M. WOOD • Clerk of the Court
FILED: AA