FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D19-573

EUGENE MCDONALD,

Appellant,

v.

CITY OF JACKSONVILLE,

Appellee.

On appeal from an order of the Judge of Compensation Claims. Ralph J. Humphries, Judge.

Date of Accident: November 24, 2016.

December 20, 2019

PER CURIAM.

In this workers' compensation case, Claimant, Eugene McDonald, appeals an order of the Judge of Compensation Claims (JCC) denying compensability of his coronary artery disease (CAD) pursuant to the presumption of occupational causation created by section 112.18, Florida Statutes. As explained below, because the JCC put the burden of proof regarding the "trigger" on the wrong party, we reverse.

I.

Claimant, a law enforcement officer with the Jacksonville Sheriff's Office, was on duty on Thanksgiving Day, 2016. While on

duty, he attended a voluntary brunch held at his unit's substation, then resumed his patrol duties. He testified that shortly after the brunch, and again at work on Friday, he experienced what he thought was indigestion. On Saturday, Claimant was off duty, but his pain worsened, so his wife took him to the hospital. Doctors at the hospital diagnosed a heart attack (myocardial infarction), and hospitalized him for five days. The medical evidence established that Claimant had CAD, which ultimately led to a plaque rupture, and his subsequent myocardial infarction.

Later, Claimant filed a petition for benefits seeking compensability of his CAD as the industrial injury. The Employer/Carrier (E/C) expressly denied compensability of the CAD.

In the ensuing litigation, Claimant produced an opinion from his independent medical examiner, Dr. Mathias, that the cause of his CAD could not be determined. The E/C, in turn, relied on the opinion of the authorized treating provider, Dr. Dietzius, that the cause of the CAD was a combination of non-occupational factors.

The JCC appointed an expert medical advisor, Dr. Borzak, who opined that "the cause of the event was the presence of hypercholesterolemia, hypertension, diabetes and age" and that those non-occupational risk factors "were sufficiently strong in this case to reach the standard of more likely than not resulting in his coronary event." Dr. Borzak added that "[w]hile the onset of symptoms was on the job, there is no clear or identifiable triggering factor."

In his final order, the JCC found that Claimant met his burden to prove the statutory criteria entitling him to the presumption of compensability of his CAD, because he proved that he was a member of a protected class, that his "coronary artery disease resulting in a myocardial infarction" qualifies as "heart disease" that could be covered by the presumption, that his pre-employment physical showed no evidence of heart disease, and that he sustained disability based on his hospitalization following the heart attack caused by his CAD. Thus, the JCC explained, because Claimant relied solely on the presumption to establish compensability, the E/C's burden—to rebut and attempt to overcome the presumption—was to present at least competent,

substantial evidence that Claimant's CAD resulted from non-occupational causes.

Once the JCC ascertained that Dr. Borzak had opined that Claimant's CAD resulted from wholly non-occupational causes, the JCC embarked on an analysis of whether there was a "trigger" causing Claimant's heart attack and, if so, whether that trigger was occupational or non-occupational; as authority, the JCC cited *City of Jacksonville v. Ratliff*, 217 So. 3d 183 (Fla. 1st DCA 2017). For the reasons explained below, the JCC erred by placing this trigger burden on Claimant.

II.

For proof of occupational causation Claimant relies solely on section 112.18's statutory presumption that "[a]ny condition or impairment of health of any . . . law enforcement officer . . . caused by tuberculosis, heart disease, or hypertension . . . shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence." Claimants seeking to avail themselves of this statutory presumption of occupational causation must meet certain prerequisites.

The E/C concede that Claimant satisfied all the statutory prerequisites for entitlement to the presumption that his CAD was work-related. This necessarily includes the fact that the cause of Claimant's disability due to his heart attack was his CAD, which is what Dr. Borzak opined and the JCC found.[1] At that point, the issue was whether the E/C could overcome, with the requisite competent evidence, the presumption that the CAD was occupational.

Where the JCC erred was by overlooking the fact that by proving the prerequisites—including a disabling heart attack caused by CAD—Claimant had established entitlement to travel

[1] Dr. Borzak opined that the cause of "the event"—i.e., the heart attack—was "the presence of hypercholesterolemia, hypertension, diabetes, and age," the same risk factors he cited as being the cause of Claimant's CAD.

on the presumption, and by requiring Claimant to establish a work-related cause of the purported "trigger" of his heart attack rather than keeping the burden on the E/C to overcome the presumption of compensability of the CAD.

III.

To reiterate, section 112.18 constitutes the proof of occupational causation, providing that a claimant's heart disease: "*shall be presumed* to have been *accidental* and to have been suffered *in the line of duty* unless the contrary be shown by competent evidence" (emphasis added). After the claimant has satisfied the prerequisites of section 112.18, "there is no requirement on the part of the claimant to put on further proof." *Ratliff*, 217 So. 3d at 192. The burden then switches to the E/C because,

> [o]nce it arises, the presumption of occupational causation "remains with the claimant . . . and . . . is itself sufficient to support an ultimate finding of occupational causation unless overcome by evidence of sufficient weight to satisfy the trier of fact that the tuberculosis, heart disease or hypertension had a non-industrial cause." Unless the statutory presumption is rebutted, the presumption is an adequate substitute for evidence of occupational causation, and compels the legal result that a claimant has proven occupational causation. . . .
>
> . . . .
>
> . . . "[A] claimant's burden . . . is fully met where the presumption contained in section 112.18(1) is applied. . . ."

Walters v. State—DOC/Div. of Risk Mgmt., 100 So. 3d 1173, 1176 (Fla. 1st DCA 2012) (citations omitted).

E/Cs may overcome the presumption by presenting rebuttal evidence to convince the JCC, by the requisite weight of the evidence, that the cause of the heart disease is nonoccupational; if they do so, they can overcome the presumption and prove that the heart disease is non-compensable. *See Mitchell v. Miami Dade*

Cty., 186 So. 3d 65, 68 (Fla. 1st DCA 2016) ("When applied to workers' compensation proceedings, the presumption, even if *rebutted*, does not disappear; rather, the JCC is then charged with deciding whether the evidence is sufficient to *overcome* the presumption."). The E/C's burden is met if they prove that the heart disease was caused by either a single non-work-related factor or a "combination of wholly non-industrial causes." *Walters*, 100 So. 3d at 1174-75; *see also Ratliff*, 217 So. 3d at 189 (citing *Punsky v. Clay Cty. Sheriff's Office*, 18 So. 3d 577, 583-84 (Fla. 1st DCA 2009)); *Butler v. City of Jacksonville*, 980 So. 2d 1250 (Fla. 1st DCA 2008); *Lentini v. City of W. Palm Beach*, 980 So. 2d 1232 (Fla. 1st DCA 2008).

It follows that, where a claimant is entitled to travel on the presumption and there is medical evidence of a "trigger" which contributed to the heart disease—here, the myocardial infarction—it is presumed that the trigger is work-related.[2] The burden rests on the E/C to establish that the heart disease was caused by a "combination of wholly non-industrial causes"—i.e., that the trigger of the claimant's heart disease is not work-related.[3] *Cf. Walters*, 100 So. 3d at 1175.

IV.

In sum, because Claimant satisfied the prerequisites of section 112.18—establishing occupational causation of his heart disease—the burden was on the E/C to put forth evidence that the heart disease had wholly nonoccupational causes. Accordingly, we

---

[2] Dr. Borzak opined that Claimant's myocardial infarction was "a form of coronary artery disease."

[3] To the extent *Ratliff*'s footnote eleven suggests that a claimant traveling on the presumption is obliged to show—where a trigger exists—that the trigger is work-related, it is dicta; the time and place of the onset of symptoms are never dispositive as to an injury's work-relatedness. *See, e.g.*, *Walters*, 100 So. 3d at 1174 ("The presumption is dispositive unless rebutted by medical evidence.").

remand for the JCC to determine, with the evidence already before him, whether the E/C has overcome this statutory presumption.

REVERSED and REMANDED.

RAY, C.J., and WINOKUR and JAY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Amie E. DeGuzman and John J. Rahaim II, of Law Office of John J. Rahaim, II, P.A., Jacksonville, for Appellant.

Michael Arington of Eraclides, Gelman, Hall Indek, Goodman, Waters & Traverso, Jacksonville, for Appellee.