IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Chromalloy and Gallagher Bassett Services, Inc., Petitioners	:	
v.	:	No. 2291 C.D. 2007
Workers' Compensation Appeal Board (Scheib), Respondent	:	Argued: June 9, 2008

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE JAMES R. KELLEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE KELLEY FILED: December 22, 2008

Chromalloy and Gallagher Bassett Services, Inc. (Employer) petition for review of an order of the Workers' Compensation Appeal Board (Board) which affirmed an order of a Workers' Compensation Judge (WCJ) granting the Claim Petition of Gerald Scheib (Claimant), and awarding benefits for hearing loss pursuant to the Pennsylvania Workers' Compensation Act (Act), Act of June 2, 1915, P.L. 736, as amended, 77 P.S. §§1 - 1041.4; 2501 - 2708. We affirm.

Claimant worked for Employer as a maintenance man for 37 years, during which time he was exposed to extremely noisy machinery. On January 14, 2002, Claimant brought a Claim Petition under the Act alleging hearing loss sustained in the course and scope of his work for Employer. Employer thereafter

filed an Answer, denying the material allegations therein. Hearings ensued before a WCJ at which both parties appeared, were represented by counsel, and presented evidence and testimony.

Claimant's testimony included assertions of his work-related noise exposure, and assertions that he was not exposed to extreme noise from non-occupational sources. Claimant also presented the deposition testimony of Dr. Alan Miller, who testified as to his examination and testing of Claimant's hearing.[1] Dr. Miller testified, *inter alia*, that Claimant had a binaural hearing loss of 85%, based upon a loss of 84.3% in the right ear, and 90% loss in the left ear. Dr. Miller acknowledged that Claimant's hearing loss at two specific frequencies was connected to other pathologies, yet opined that Claimant had a progressive deterioration of hearing over his years of employment and that the overall result was compatible with acoustic trauma from industrial noise.

The WCJ, after hearing all of the evidence and testimony from both parties, found Claimant and Dr. Miller to be credible, and granted Claimant's Petition by Decision and Order dated October 17, 2003 (WCJ Decision I). Employer appealed to the Board.

Following review of the record, the Board vacated and remanded WCJ Decision I by order dated December 10, 2004. The Board ordered the WCJ, on remand, to explain his credibility determinations regarding Dr. Miller, to

[1] Dr. Miller examined Claimant, on behalf on Employer, pursuant to a requested Independent Medical Examination (IME).

determine the date of Claimant's injury, and to clarify the list of exhibits within the record.

Following the remand, the WCJ issued a second Decision and Order dated November 27, 2006 (WCJ Decision II), addressing the Board's remand instructions. Again, the WCJ granted Claimant's Petition, and awarded Claimant total disability benefits under the Act. Employer again appealed to the Board.

The Board, *inter alia*, found no error in the WCJ's weighing of the conflicting evidence and concomitant credibility determinations, particularly in regards to the extent and work-relatedness of Claimant's hearing loss. The Board affirmed WCJ Decision II by order dated November 16, 2007. Employer now petitions for review of the Board's order.

This Court's scope of review is limited to determining whether there has been a violation of constitutional rights, errors of law committed, or a violation of Board procedures, and whether necessary findings of fact are supported by substantial evidence. Lehigh County Vo-Tech School v. Workmen's Compensation Appeal Board (Wolfe), 539 Pa. 322, 652 A.2d 797 (1995).

Employer first[2] argues that Dr. Miller's testimony regarding Claimant's hearing loss in relation to occupational noise was equivocal. The equivocality of a medical opinion is a question of law and fully reviewable by this Court. Carpenter Technology v. Workmen's Compensation Appeal Board (Wisniewski), 600 A.2d 694 (Pa. Cmwlth. 1991). Equivocality is judged upon a

[2] Employer's issues have been reordered and consolidated in the interests of clarity.

review of the entire testimony. Id. In conducting this review, we recognize our prior admonition in Philadelphia College of Osteopathic Medicine v. Workmen's Compensation Appeal Board (Lucas), 465 A.2d 132 (Pa. Cmwlth. 1983), that to be unequivocal, every word of medical testimony does not have to be certain, positive, and without reservation or semblance of doubt.

Employer's arguments on the equivocality issue are all founded upon narrowly selected portions of Dr. Miller's testimony, on both direct and cross-examination, that Employer argues support findings and related conclusions contrary to those made by the WCJ. Building therefrom, Employer argues in essence that Dr. Miller's testimony in this case is therefore not legally sufficient to support an award of compensation based upon a finding of an 85% binaural impairment. Citing to its preferred portions of Dr. Miller's testimony, Employer relies upon certain responses elicited from Dr. Miller to hypothetical situations posed by Employer upon cross-examination. Employer argues that the expert's testimony is therefore equivocal, and thusly provides an insufficient foundation upon which benefits could be granted.[3]

Employer argues that Dr. Miller's testimony establishes multiple potential causes for Claimant's hearing loss at two tested frequencies, and thusly does not establish occupational noise as the substantial contributing factor.

[3] Notwithstanding any applicable rebuttable presumptions regarding proving compensable hearing loss within the hearing loss amendments to Section 306(c)(8) of the Act, added by the Act of February 23, 1995, P.L. 1, 77 P.S. §513(8), to establish a compensable hearing loss a claimant must still prove permanency, causation, and a binaural impairment exceeding 10%. Bowman v. Workers' Compensation Appeal Board (Wilson and Great

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Employer emphasizes that Dr. Miller expressly explained some of those other potential causes, including causes that aligned with Claimant's stated symptoms and complaints. Additionally, Employer argues that Dr. Miller also opined that a blockage that may be removable by surgery could potentially reduce or eliminate some of the hearing loss at issue, and that thusly Claimant did not prove the permanency of his loss. Finally on this issue, Employer cites to medical evidence beyond that presented by Dr. Miller that Employer argues supports a conclusion contrary to that made by the WCJ herein.

We first note that, in relation to the findings made by the WCJ in support of his conclusion that Claimant satisfied his burden of establishing a permanent compensable hearing loss,[4] it is irrelevant that the record reveals evidence that would support a contrary finding; the relevant inquiry is whether the record contains substantial evidence[5] supporting the actual findings that were made. Grabish v. Workmen's Compensation Appeal Board (Trueform

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American Insurance Co.), 809 A.2d 447 (Pa. Cmwlth. 2002).

[4] Most notably on this point, *inter alia*, the WCJ found that although Dr. Miller found some attribution to reasons other than industrial noise exposure for Claimant's condition, his report showed a loss of hearing of 90% in Claimant's left ear, and 84.3% in his right ear, which equate to a binaural loss of 85%. WCJ Decision II, Finding 19. Further, the WCJ found that Dr. Miller opined that Claimant's steadily progressing hearing loss over the years was compatible with acoustic trauma in the form of industrial noise. Id. Notwithstanding his review of the other alleged factors in Claimant's hearing loss, the WCJ accepted Dr. Miller's testimony on these points as credible, and found unpersuasive the information elicited by Employer on cross-examination. Id. at Findings 20-24, 26-27.

[5] Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Mrs. Smith's Frozen Foods v. Workmen's Compensation Appeal Board (Clouser), 539 A.2d 11 (Pa. Cmwlth. 1988).

Foundations, Inc.), 453 A.2d 710 (Pa. Cmwlth. 1982). Accordingly, inasmuch as Employer's arguments on this issue can be read to implicitly attack the WCJ's findings that support his conclusions, they must fail in their reliance upon other evidence of record that may support findings contrary to those that have been made in this case. Id.

Secondly, we emphasize that it is axiomatic that the equivocality of an expert's testimony is to be determined in relation to that testimony as a whole, and without resort to a narrow reliance only upon selected portions thereof. Carpenter Technology. We have held that even if a medical expert admits to uncertainty, reservation, or a lack of information with respect to medical details, the testimony remains unequivocal so long as the expert expresses a belief that in his or her professional opinion a fact exists. Shaffer v. Workmen's Compensation Appeal Board (Weis Markets), 667 A.2d 243 (Pa. Cmwlth. 1995), petition for allowance of appeal denied, 544 Pa. 618, 674 A.2d 1079 (1996). As such, Employer's reliance on its selected testimony favoring its preferred conclusion is without merit.

Applying these well-established standards to the testimony *sub judice*, Dr. Miller's testimony as a whole is not equivocal.[6] Dr. Miller's concessions on cross-examination, and/or any consideration by the expert of the hypotheticals posed by Employer, do not constitute equivocality or incompetence. While we

6 We emphasize that the WCJ expressly found Dr. Miller's testimony to be credible and persuasive. WCJ Decision II, Findings 26-27. We will not disturb that credibility determination on appeal, and additionally, it is not this Court's function to reweigh the evidence or to determine whether the WCJ made the most reasonable and probable findings that could have been rendered. Bethenergy Mines v. Workmen's Compensation Appeal Board (Skirpan), 531 Pa. 287,

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emphasize that it is Dr. Miller's testimony *in toto* that supports the unequivocality of his medical opinion, we note the following exchange elicited immediately after his address of Claimant's hearing loss at certain tested frequencies that were conceded to have been attributable to non-industrial noise exposure; in addressing his written report of his testing of Claimant, Dr. Miller testified upon direct examination:

> Q: Then you go on to say [in your report]: "However, [Claimant] does show progressive deterioration over his years of employment, and the overall result appears compatible with acoustic trauma." Is that correct?
> A: Yes.
> Q: And the acoustic trauma would be the [work-related] industrial noise?
> A: Yes.
> Q: And is that your opinion today, Doctor?
> A: Yes.

Reproduced Record (R.R.) at 198a. That statement by Dr. Miller, in conjunction with his testimony when considered as a whole, constitutes unequivocal medical testimony provided upon a foundation sufficient to establish that, in Dr. Miller's professional opinion, Claimant's work-related compensable hearing loss exists. Philadelphia College of Osteopathic Medicine. As such, Employer's argument on this point must fail.

Relatedly, Employer's next issue is founded on its assertion that Dr. Miller's testimony established that Claimant's total hearing loss was not solely attributable to occupational industrial noise, and that non-occupational factors

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612 A.2d 434 (1992).

could be quantified and deducted from any total hearing loss. Employer argues that, factoring out such quantifiable non-occupational loss factors, Claimant's hearing loss is less than total under the Act.

Pursuant to Section 306(c)(8)(i) of the Act, 77 P.S. §513(8)(i), the American Medical Association (AMA) Impairment Guides are to be used as the standard by which to measure the level of permanent work-related binaural hearing loss. In his deposition testimony, Dr. Miller explained the AMA Guide calculation for binaural impairment rating, noting that a person is tested at the 500, 1,000, 2,000, and 3,000 Hertz (Hz.) frequencies, which results are then placed into a formula to determine the percentage of total binaural hearing loss.

Employer asserts that Dr. Miller testified in detail that Claimant's loss at the 500 and 1,000 Hz. frequencies may have been due to causes other than occupational noise; Employer argues that the sole reason that Claimant's compensable loss reached the 85% level was the inclusion of the non-work-related hearing losses at the 500 and 1,000 frequencies. R.R. at 231a-240a. Employer further argues that Dr. Miller could more accurately quantify the lesser occupational exposure impairment percentage by removing the results at those two frequencies, which quantification would produce a result of impairment between 30% and 36%. Id. Thus, Employer concludes, the substantial contributing factor to the 85% impairment was not a work-related factor. In its cross examination of Dr. Miller, Employer requested that Dr. Miller re-calculate Claimant's hearing loss under the statutory formula by imputing values of zero to the 500 and 1,000 frequencies within the formula. Id. On appeal, Employer argues that the WCJ

erred in failing to adopt this proffered approach in applying the AMA Guides and formula.

Employer emphasizes that the AMA Guides and statutory formula are simply a measure of overall impairment, without reference to or accommodation for the Act's purposes; as such, it does not factor in, nor decide, the work-relatedness of impairment. It follows, Employer concludes, that such an application of the formula under the instant facts is within the spirit of the Act, in that an employer should only be responsible for the hearing loss it has caused.

Employer accurately cites to the precedents of our Supreme Court, and of this Court, which have allowed for the factoring out of non-occupational causes in quantifying compensable hearing loss. See generally: LTV Steel Co., Inc. v. Workers' Compensation Appeal Board (Mozena), 562 Pa. 205, 754 A.2d 666 (2000); Maguire v. Workers' Compensation Appeal Board (Chamberlain Mfg. Co., Inc.), 821 A.2d 178 (Pa. Cmwlth. 2003). Additionally, Employer cites to Richcreek v. Workers' Compensation Appeal Board (York Intern. Corp.), 786 A.2d 1054 (Pa. Cmwlth. 2001), in which we held that a deduction in compensable hearing loss percentage is allowed for non-occupational factors if the doctor can quantify the loss due to other factors. Richcreek, Employer argues, established that the AMA Guides provide standards against which hearing loss is measured, but that it is for the medical expert to determine the percentage of loss attributable to the workplace. Richcreek, 786 A.2d at 1057. While we agree with Employer's accurate recitation of these general principles, we disagree with Employer's

characterization of the evidence presented and accepted on the record before the Court in this matter.

In the precedents cited by Employer, expert medical testimony and opinion was presented by the employers that expressly supported the quantification of the deductible, non-occupational factors contributing to the hearing losses at issue. No such express testimonial evidence was presented and/or accepted in the matter *sub judice*; Employer, in fact, presented no expert medical testimony whatsoever in this matter on any issue. While Dr. Miller did testify as to his review of certain additional medical records and test results in this case, Employer chose not to enter any medical testimony at all. Although Employer argues that the concessions elicited from Dr. Miller in Employer's cross-examination, in which Employer requested that the zero values be inserted into the statutory formula in response to Employer's presentation of a hypothetical scenario to the expert,[7] Dr. Miller's testimony in response does not render persuasive or controlling the precedents cited by Employer when the WCJ's credibility determinations, and the weight assigned to the evidence thereby, are considered.

In his assigning of weight to the evidence presented in this matter, and in his concomitant credibility determinations, the WCJ expressly considered and rejected the testimony elicited by Employer on cross-examination upon which Employer now relies. WCJ Decision II, Findings 19-24, 26-27. We will not

[7] Employer correctly asserts that it is established that a party may employ a hypothetical question in its cross-examination of a medical witness. Holy Family College v. Workmen's Compensation Appeal Board (Kycej), 479 A.2d 24 (Pa. Cmwlth. 1984).

disturb those determinations, nor reweigh the evidence presented, in our appellate role. Lehigh County; Grabish. As such, the precedents cited by Employer on this issue are distinguishable,[8] and Employer's argument is without merit.

Employer next argues that the WCJ erred in making his findings of fact, in that he misinterpreted and misapplied the applicable case law regarding the cross-examination testimony of Dr. Miller reviewed under the previous issue. Employing essentially the same arguments and legal principles addressed in the preceding issue, Employer argues that the WCJ's rejection of Dr. Miller's testimony on cross-examination was error. For the reasons applied in our preceding analysis, we disagree. Employer's arguments on this point are essentially a request for this Court to revisit the WCJ's credibility determinations, and/or to reweigh the evidence presented, which functions are reserved to the fact finder and beyond our scope of appellate review. Lehigh County; Grabish. The WCJ's findings as a whole, especially in relation to Dr. Miller's entire testimony, clearly and expressly evince the WCJ's consideration of the cross-examination testimony without finding it persuasively controlling or contradictory to Dr. Miller's ultimate expert conclusion regarding Claimant's compensable hearing loss.

[8] Employer also cites to Williams v. Workers' Compensation Appeal Board (Trinity Industries), 841 A.2d 164 (Pa. Cmwlth. 2004), in which a medical expert calculated a claimant's impairment by imputing zero values into the AMA formula for one ear in which the claimant had a 100% non-work-related hearing loss, resulting in the Doctor's conclusion of a binaural impairment less than 10%. This Court affirmed that approach where the WCJ found that medical testimony more credible than the opposing expert testimony. As no such supporting credibility determinations were made in relation to the medical testimony in this case, Williams is inapplicable, and we decline Employer's invitation to adopt the same approach under the instant facts.

WCJ Decision II, Findings 19-24, 26-27. It is axiomatic that answers given during cross-examination do not destroy the effectiveness of a medical expert's previous opinion, as such statements go to the weight, not the competency, of that opinion. Hannigan v. Workmen's Compensation Appeal Board (Asplundh Tree Expert Co.), 616 A.2d 764 (Pa. Cmwlth. 1992), petition for allowance of appeal denied, 535 Pa. 670, 634 A.2d 1118 (1993). The evidence is to be assessed as a whole in determining the weight to be given to the expert opinion. Id.

Finally, we will address Employer's contention that the WCJ failed to render a reasoned decision as required under Section 422(a) of the Act, 77 P.S. §834. Section 422(a) of the Act provides, in pertinent part, that:

> [a]ll parties to an adjudicatory proceeding are entitled to a reasoned decision containing findings of fact and conclusions of law based upon the evidence as a whole which clearly and concisely states and explains the rationale for the decisions so that all can determine why and how a particular result was reached…, [and t]he adjudication shall provide the basis for meaningful appellate review…

77 P.S. §834.

Employer argues that the WCJ's findings are internally inconsistent, in that he found Dr. Miller's testimony to be credible, yet did not assign controlling weight to Dr. Miller's concessions on cross-examination regarding what Employer characterizes as hearing loss attributed to non-work-related factors. We disagree that the WCJ's findings are inconsistent in any respect.

Employer cites to the following WCJ findings as inconsistent:

> 19. An audiogram performed by Dr. Miller on May 2, 2002, indicated a profound neural sensory hearing loss in

> both ears, with poor understanding of speech. Dr. Miller's report showed a loss of hearing in the Claimant's right ear of 84.3 percent, and in the left ear of 90 percent, equating to a binaural loss of 85 percent. Dr. Miller opined that the sever [sic] loss at the 500 and 1,000 frequencies were attributable to reasons other than industrial noise exposure, **but that the steady progression of his hearing loss over the years was compatible with acoustic trauma in the form of industrial noise.**
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> 22. Dr. Miller confirmed his opinion that hearing loss at the 500 and 1,000 cycles are typically due to reasons other than noise exposure, but that Claimant's overall hearing loss and progressive deterioration is compatible with acoustic trauma, in the form of industrial noise. Dr. Miller further stated that, although the maximum amount of hearing loss occurs within the first 10 to 12 years, deterioration in the hearing continues to take place, just to a lesser degree.
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> * * *
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> 24. Dr. Miller testified on re-cross examination that, even if he were to remove the non work-related values at the 500 and 1,000 levels, which were part of the 85 percent binaural loss calculation, the degree of the Claimant's hearing loss is still 30 percent in his right ear and 36 percent in his left ear, with a binaural calculation somewhere in the middle.

WCJ Decision II (emphasis in original). Additionally, we note that the WCJ found:

> 26. As a matter of law, this Judge finds the testimony of Dr. Miller to be credible. Dr. Miller was the [Employer's] own IME doctor and testified favorably on behalf of the Claimant that his hearing loss is work-related. This Judge finds Dr. Miller's opinions to be competent and persuasive because: (1) Dr. Miller, after taking a thorough history, found no outside influences which would have contributed to the Claimant's hearing loss; (2) there were no deductions in the percentage of a

> overall hearing loss that could be attributed to outside factors; (3) Dr. Miller's opinions were consistent with those of Drs. Vander Ark and Wilcox, who also examined the Claimant; and (4) Dr. Miller's findings were based upon the statutory formula for determining hearing loss.
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> 27. This Judge finds nothing during the cross-examination of Dr. Miller to be persuasive. [Employer] attempts to change Dr. Miller's opinions based upon changing the statutory formula and the use of hypothetical. This did not change Dr. Miller's opinion and, therefore, is not persuasive to this Judge.

Id.

Notwithstanding Employer's repeated reliance upon selected sentences, we emphasize that a WCJ's credibility determination regarding a witness's testimony does not impart credibility to each and every statement so made by that witness. The WCJ, as the ultimate fact finder in workers' compensation cases, has exclusive province over questions of credibility and evidentiary weight, and is free to accept or reject the testimony of any witness, including a medical witness, in whole or in part. General Electric Co. v. Workmen's Compensation Appeal Board (Valsamaki), 593 A.2d 921 (Pa. Cmwlth.), petition for allowance of appeal denied, 529 Pa. 626, 600 A.2d 541 (1991). As such, the WCJ in this matter was not bound to accept the testimony of Dr. Miller, elicited on cross-examination in response to Employer's presented hypotheticals, as a consequence of finding Dr. Miller to be credible in general. Similarly, as noted by the Board, a WCJ summary of testimony within a particular finding is not technically a finding of that summary as fact. Marcks v. Workmen's

Compensation Appeal Board, 442 A.2d 9 (Pa. Cmwlth. 1982). Additionally, as noted above, the WCJ expressly rejected as unpersuasive Dr. Miller's responses on cross-examination to Employer's hypothetical. WCJ Decision II, Finding 27. The WCJ's findings, therefore, are not internally inconsistent, and do not fail to constitute a reasoned decision on this basis.

Next, Employer argues that the WCJ was required to explain why specific portions of Dr. Miller's cross-examination testimony were not credible. Employer flatly misstates the reasoned decision requirements of the Act as interpreted by our precedents. A decision is reasoned if it allows for adequate appellate review under the applicable standards of review. Daniels v. Workers' Compensation Appeal Board (Tristate Transport), 574 Pa. 61, 76, 828 A.2d 1043, 1052 (2003). However, this does not mean that a WCJ must provide a line-by-line recitation of every line of evidence. Indeed, this Court has previously explained:

> A reasoned decision does not require the WCJ to give a line-by-line analysis of each statement by each witness, explaining how a particular statement affected the ultimate decision.

Acme Markets, Inc. v. Workers' Compensation Appeal Board (Brown), 890 A.2d 21, 26 (Pa. Cmwlth. 2006). The WCJ's credibility determinations and related explanations are well reasoned and complete, allow for meaningful appellate review, and do not fail to constitute a reasoned decision on this basis.

Employer next argues that the WCJ failed to provide a reasoned decision because of his failure to discuss the reports of Dr. Wilcox and/or Dr. Vander Ark on Dr. Miller's testimony, or to explain why Dr. Miller's testimony

was more persuasive than the opinions of the other two doctors. First on this point, we note that neither Dr. Wilcox nor Dr. Vander Ark testified in this matter, either in person or via deposition. As such, no credibility determination on their reports was necessary. Notwithstanding Employer's attempt to characterize those experts as witnesses without having actually entered their witness testimony in these proceedings, the WCJ's findings establish that the WCJ did in fact consider and address their reports as addressed by Dr. Miller, and found those opinions to be consistent. WCJ Decision II, Finding 26. As such, Employer's arguments on this issue are meritless.

Finally, Employer argues, generally, that the WCJ's refusal to accept as credible the testimony preferred by Employer – namely, that testimony elicited from Dr. Miller on cross-examination, found unpersuasive by the WCJ – constitutes a capricious disregard of evidence.[9] We disagree.

Where a WCJ's findings reflect a deliberate disregard of competent evidence that logically could not have been avoided in reaching a decision, the findings represent a capricious disregard of competent evidence. Pryor v. Workers' Compensation Appeal Board (Colin Service Systems), 923 A.2d 1197 (Pa. Cmwlth. 2006). Employer herein, however, mistakes the WCJ's rejection of its preferred evidence as a disregard therefor. The WCJ's decision as a whole reflects that the evidence Employer argues has been disregarded was indeed considered

[9] In Leon E. Wintermyer, Inc. v. Workers' Compensation Appeal Board (Marlowe), 571 Pa. 189, 812 A.2d 478 (2002), our Supreme Court held that review for a capricious disregard of material, competent evidence is an appropriate component of appellate consideration in every

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and rejected as unpersuasive. That rejection is not, however, a capricious disregard, notwithstanding Employer's assertions. Where there exists substantial evidence to support a WCJ's factual findings, and those findings in turn support the conclusions, it should remain a rare instance in which a reviewing court would disturb an adjudication based upon capricious disregard. Frankford Hospital v. Workers' Compensation Appeal Board (Walsh), 906 A.2d 651 (Pa. Cmwlth. 2006). The record to the instant matter reveals substantial evidence supporting all of the WCJ's findings herein; additionally, the WCJ expressly considered, and rejected, the evidence at issue in Employer's argument on this point. As such, Employer's argument on this issue must fail.

Accordingly, we affirm.

JAMES R. KELLEY, Senior Judge

case in which such an issue is properly presented to the court.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Chromalloy and Gallagher Bassett Services, Inc., Petitioners	:	
v.	:	No. 2291 C.D. 2007
Workers' Compensation Appeal Board (Scheib), Respondent	:	

O R D E R

AND NOW, this 22nd day of December, 2008, the order of the Workers' Compensation Appeal Board dated November 16, 2007, at A06-2840, is affirmed.

JAMES R. KELLEY, Senior Judge