

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jacqueline White, :
Petitioner :
 :
v. : No. 309 C.D. 2008
 : Submitted: July 3, 2008
Workers' Compensation Appeal :
Board (University of Pennsylvania), :
Respondent :

BEFORE: HONORABLE DORIS A. SMITH-RIBNER, Judge
HONORABLE MARY HANNAH LEAVITT, Judge
HONORABLE JOSEPH F. McCLOSKEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE LEAVITT

FILED: August 29, 2008

Jacqueline White (Claimant) petitions for review of an adjudication of the Workers' Compensation Appeal Board (Board) granting her claim petition for a fixed period of time. The Board affirmed the decision of the Workers' Compensation Judge (WCJ) that Claimant did not prove that she was disabled by her work injury for more than seven days and, therefore, was not entitled to indemnity compensation beyond the seven days. Finding no merit to Claimant's contention that the WCJ did not issue a reasoned decision, we will affirm.

Claimant was employed as a police officer for the University of Pennsylvania (Employer). Claimant was required to take and pass a physical examination in order to qualify for her position. This examination did not reveal any conditions that might affect Claimant's ability to perform the job of a police officer for Employer.

On August 6, 2002, Claimant was struck in the middle of her chest with an open hand while attempting to arrest a suspect. When Claimant's supervisor, Lieutenant John Wiley, arrived on the scene and found Claimant to be short of breath, he took her to the emergency room. There, Claimant, showing a red mark on her chest beneath her bullet proof vest, was diagnosed with a contusion to the chest. Claimant was discharged with instructions to follow up with the occupational health department. She did so and was instructed to stay out of work for one week. Thereafter, Claimant was cleared to return to work, and she did so for another four or five months without any complaints or symptoms. In December of 2002, Claimant resigned her position with Employer for the stated reason that it was not the right job for her.

In January 2003, Claimant began to work as a part-time police officer for the Borough of Oxford and for the Borough of South Coatesville. Claimant worked for four months without any health problems. On April 8, 2003, Claimant resigned from her position with South Coatesville because she was unhappy with her shifts and compensation.

On April 12, 2003, Claimant experienced an episode of a racing heartbeat and light-headedness. Accordingly, she was hospitalized and treated for low-blood pressure during which time she did not work for Oxford. Over the next several months, Claimant was hospitalized several more times.¹ She was eventually diagnosed with autonomic nervous dysfunction in the form of vasovagal syncope and orthostatic hypotension, which are conditions that cause one's blood

¹ In one hospitalization, Claimant underwent an ablation procedure on her heart for treatment of a congenital abnormality of the electrical pathways that caused Claimant to suffer cardiac arrhythmia. Claimant testified that she felt much better after the procedure.

pressure to drop upon sitting or standing up and can lead to a loss of consciousness. Because Claimant continued to suffer episodes of light-headedness, she was unable to return to work as a police officer for the Borough of Oxford.

On August 2, 2005, Claimant filed a claim petition asserting, *inter alia*, that she suffered a work-related injury in the form of a “[c]ontusion to chest and left shoulder and arm with permanent autonomic system dysfunction” when she was struck in the chest on August 6, 2002, while working for Employer. Reproduced Record at 4a (R.R. ___). Employer timely filed an answer denying the allegations in the claim petition.

At the hearing before the WCJ, Claimant testified about the August 6, 2002, incident and about her work for Employer. Claimant testified that she began to experience arrhythmia, shortness of breath and light-headedness in December of 2002; however, she was able to work as a part-time officer for two different police departments for four months. Since April 12, 2003, however, Claimant’s hospitalizations and light headedness have made it impossible to return to work as a police officer.

Claimant introduced a copy of the physical examination required for her job with Employer that showed her to be in good health. Claimant also introduced the medical records from the emergency room where she initially sought treatment for the August 6, 2002, assault, as well as the emergency room records from a subsequent visit for symptoms related to her autonomic nervous dysfunction.

Claimant then introduced the deposition testimony of Michael B. Goodkin, M.D., who is board-certified in internal medicine and cardiovascular

disease. Dr. Goodkin testified that he first saw Claimant in August of 1998, at which time Claimant reported a history of fatigue, chest tightness, fainting, and a racing heartbeat. Dr. Goodkin did not diagnose Claimant with autonomic nervous dysfunction because he did not know anything about the disorder at that time. However, in May of 2003, Dr. Goodkin diagnosed Claimant with autonomic nervous dysfunction. Dr. Goodkin testified that when he learned that Claimant had been kicked in the chest, he opined that “it is highly probable that the injury had caused the autonomic dysfunction.” R.R. at 25a. He based this conclusion on the fact that Claimant’s diagnosis followed the chest injury by less than one year. Dr. Goodkin conceded, however, that he could not explain how trauma would cause autonomic nervous dysfunction. Dr. Goodkin opined that Claimant’s condition prevented her from returning to her employment as a police officer.

In opposition, Employer introduced the testimony of Lieutenant John Wiley, who testified about Claimant’s general duties as a patrol officer for Employer. He also testified about the incident of August 6, 2002; Claimant’s week of convalescence; and her return to her regular position without any complaints. Lieutenant Wiley confirmed that Claimant resigned from her position with Employer in December of 2002 for professional reasons.

Employer also introduced the testimony of John Slauch, Chief of Police for the Borough of Oxford and Lewis Wilson, Chief of Police for the Borough of South Coatesville. Each testified regarding Claimant’s work as a police officer and confirmed that she was not required to undergo a physical examination in order to be hired. Chief Wilson testified that Claimant left South Coatesville because she was unhappy with the terms of her employment, and Chief Slauch testified that he did not know why Claimant left Oxford.

Employer introduced the deposition testimony of William Pentz, M.D., who is board-certified in cardiovascular disease and nuclear cardiology. Dr. Pentz testified that he examined Claimant in June of 2006, at which time he also reviewed Claimant's medical history, records, and diagnostic studies. Dr. Pentz confirmed the diagnosis of autonomic nervous dysfunction, and he agreed that Claimant's condition prevented her from returning to work as a police officer. However, Dr. Pentz opined that the incident of August 6, 2002, was not the cause of this condition, explaining that there was nothing in the medical literature to support the theory that a chest trauma could cause autonomic nervous dysfunction. Further, he testified that there was no physiological explanation or support for such a theory.

The WCJ held that Claimant failed to establish that she was disabled by her work injury for more than seven days.² The WCJ accepted as credible Claimant's testimony regarding the work incident, as well as her testimony about the symptoms she experienced. However, the WCJ did not credit Claimant's testimony on causation. The WCJ accepted as credible and persuasive the testimony of officers Wylie, Slauch, and Wilson. Finally, the WCJ found the testimony of Employer's medical expert, Dr. Pentz, to be more credible and persuasive than the testimony of Claimant's medical expert, Dr. Goodkin. Based on the foregoing credibility determinations, the WCJ concluded that Claimant's autonomic nervous dysfunction was not caused by her August 2002 work injury.

² Finding that Claimant's condition had fully resolved within one-week's time, the WCJ both granted the claim and suspended Claimant's benefits effective August 6, 2002. The WCJ also terminated Claimant's benefits effective August 13, 2002, the date she returned to her pre-injury position with Employer.

Claimant appealed to the Board, and it affirmed. Claimant now petitions for review.³

Claimant raises one issue for this Court's review: that the WCJ failed to issue a "reasoned" decision as required by Section 422(a) of the Workers' Compensation Act (Act).⁴ In support, Claimant argues that the WCJ's decision was not reasoned because she failed to explain her credibility determinations with references to the record. Claimant also argues that the WCJ's decision is not reasoned because the findings of fact are not supported by the "entirety of the evidence." Petitioner's Brief at 24.

We begin with a review of the applicable principles. The WCJ is the ultimate fact-finder and has complete authority over questions of credibility and

³ This Court's review of an order of the Board is limited to determining whether the necessary findings of fact were supported by substantial evidence, constitutional rights were violated, or errors of law were committed. *Borough of Heidelberg v. Workers' Compensation Appeal Board (Selva)*, 894 A.2d 861, 863 n.3 (Pa. Cmwlth. 2006), *aff'd*, 593 Pa. 174, 928 A.2d 1006 (2007). The WCJ's determinations as to credibility and evidentiary weight are binding on appeal unless made arbitrarily and capriciously. *PEC Contracting Engineers v. Workers' Compensation Appeal Board (Hutchison)*, 717 A.2d 1086, 1089 (Pa. Cmwlth. 1998).

⁴ Act of June 2, 1915, P.L. 736, *as amended*, 77 P.S. §834. Section 422(a) provides in relevant part:

All 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. The [WCJ] shall specify the evidence upon which the [WCJ] relies and state the reasons for accepting it in conformity with this section. When faced with conflicting evidence, the [WCJ] must adequately explain the reasons for rejecting or discrediting competent evidence. Uncontroverted evidence may not be rejected for no reason or for an irrational reason; the [WCJ] must identify that evidence and explain adequately the reasons for its rejection. The adjudication shall provide the basis for meaningful appellate review.

77 P.S. §834.

evidentiary weight. *Davis v. Workers' Compensation Appeal Board (City of Philadelphia)*, 753 A.2d 905, 909 (Pa. Cmwlth. 2000).⁵ In construing the reasoned decision requirement in Section 422(a) of the Act, our Supreme Court has held:

A decision is “reasoned” for purposes of Section 422(a) if it allows for adequate review by the [Board] without further elucidation and if it allows for adequate review by the appellate courts under applicable review standards. A reasoned decision is no more, and no less.

Daniels v. Workers' Compensation Appeal Board (Tristate Transport), 574 Pa. 61, 76, 828 A.2d 1043, 1052 (2003). Unless a credibility assessment is tied to a witness’s demeanor before the WCJ, “some articulation of the actual objective basis for the credibility determination must be offered.” *Id.* at 78, 828 A.2d at 1053 (footnote omitted). Nevertheless, “the WCJ’s prerogative to determine the credibility of witnesses and the weight to be accorded evidence has not been diminished” by the reasoned decision requirements of Section 422(a). *Empire Steel Castings, Inc. v. Workers' Compensation Appeal Board (Cruceta)*, 749 A.2d 1021, 1027 (Pa. Cmwlth. 2000) (quoting *PEC Contracting*, at 1089).

⁵ This Court does not second-guess a credibility finding. As we have explained:

We decline [the] invitation to individually scrutinize each of the WCJ’s reasons for his credibility determination. Deciding credibility is the quintessential function of the fact-finder, particularly one who sees and hears the testimony. It is not an exact science, and the ultimate conclusion comprises far more than a tally sheet of its various components. We will not take the statutory mandate that a WCJ explain reasons for discrediting evidence as a license to undermine the exercise of this critical function by second guessing one or more of its constituent parts.

Kasper v. Workers' Compensation Appeal Board (Perloff Brothers, Inc.), 769 A.2d 1243, 1246 (Pa. Cmwlth. 2001) (footnote omitted).

Here, the WCJ credited Claimant's testimony with respect to the August 2002 incident and with respect to her symptoms. In finding Claimant not credible on causation, the WCJ explained as follows:

This [WCJ] has carefully reviewed Claimant's testimony ... This [WCJ] ... finds Claimant's testimony about the symptoms she [has] experienced to be credible and persuasive, based on the fact that both testifying physicians diagnosed her with medical conditions based on those symptoms. *Claimant's testimony concerning the cause of her symptoms, however, is disregarded because Claimant as a lay person is not competent to render an opinion on causation.* The remainder of Claimant's testimony is rejected as incredible and unpersuasive. Claimant's testimony relating her symptoms to the incident at work is really based on what she considers a temporal coincidence. *However, she obviously had these types of symptoms before her employment at [Employer] as her medical records reveals.* This [WCJ] notes that she testified that she had no similar complaints prior to August of 2002, but the medical testimony shows other incidents of dizziness, shortness of breath and heart racing prior to the work incident. In addition, she did not really experience problems until December of 2002 *so there is no real temporal relationship.* Claimant's testimony about her inability to do her job is inconsistent with the hours she worked after the August 6, 2002 incident as well as the resignation letter she wrote to South Coatesville. During the course of her medical treatment, it is clear that she searched for any cause for her myriad of debilitating symptoms. Thus, she at various times posited that her condition was related to exposure to carbon monoxide, the flu or her work injury. Her allegations now that her conditions are related to the incident on August 6, 2002 are not credible or accepted as fact.

WCJ Decision, dated May 14, 2007, at 9, Finding of Fact No. 12 (emphasis added). This explanation more than suffices to meet the reasoned decision

requirement of Section 422(a) of the Act. Simply, Claimant was not qualified to give a medical opinion about the cause of her dizziness and racing heart.

The WCJ found the testimony of Employer's medical expert, Dr. Pentz, to be more credible and persuasive than the testimony of Claimant's medical expert, Dr. Goodkin. Specifically, the WCJ rejected Dr. Goodkin's testimony regarding causation for the following reasons:

- a. *Dr. Goodkin admitted that he did not know how trauma would induce Claimant's symptoms but instead relied on temporal proximity and the opinions of another doctor who did not testify in this case. This [WCJ] further notes that Dr. Goodkin's opinions are inconsistent with the fact that [Claimant] had episodes of dizziness, fainting and shortness of breath prior to the work incident. Additionally, Dr. Goodkin admitted that Claimant's head injury and motor vehicle accident could have contributed to her condition and although the doctor relied on timing in testifying that Claimant's condition arose from the work accident this opinion is noticeably lacking from his May 1, 2003 report.*
- b. This [WCJ] also finds significant that Dr. Goodkin has an inaccurate impression of the relevant facts of this case. Claimant testified more than once that she was hit by the man's open hand on August 6, 2002, but Dr. Goodkin believed Claimant had been punched or kicked in the chest.
- c. Additionally, Claimant worked for Employer for several months after the work incident, and then for Oxford and South Coatesville Police Departments, but Dr. Goodkin believed that Claimant had unsuccessfully tried to work after the August 6, 2002 incident.
- d. Dr. Goodkin's testimony that Claimant's problems were not cardiac in nature, is also inconsistent with Claimant's

testimony that she felt much better after having the cardiac ablation procedure.

- e. Furthermore, Dr. Goodkin admitted that no peer reviewed studies or medical literature supported his opinion of a causal nexus between Claimant's conditions and a trauma to the chest.
- f. This [WCJ] notes further that despite the lack of credibility of Dr. Goodkin's opinion as to causation, his dogged pursuit of solutions to Claimant's medical problems confirms his abilities as a physician.

WCJ Decision, dated May 14, 2007, at 9-10, Finding of Fact No. 20 (emphasis added). With respect to finding Dr. Pentz more credible than Dr. Goodkin, the WCJ explained as follows:

The testimony of Dr. Pentz concerning the lack of causation with Claimant's conditions and her work injury is accepted as fact because he had a clear understanding of her conditions and symptoms because he thoroughly reviewed her medical records. His opinions also correlate with the diagnostic studies of Claimant's heart. His testimony is accepted as fact.

WCJ Decision, dated May 14, 2007, at 9-10, Finding of Fact No. 21.

Again, the WCJ's explanations for crediting Dr. Pentz over Dr. Goodkin more than satisfy the reasoned decision requirement. Dr. Goodkin found that the chest trauma caused Claimant's autonomic nervous dysfunction but could not explain (1) how this was physiologically possible or (2) why Claimant experienced symptoms of autonomic nervous dysfunction before suffering the August 2002 injury. Dr. Pentz, by contrast, offered an opinion consistent with Claimant's medical history and diagnostic tests. The WCJ's explanation of her credibility determinations and the weight assigned to the evidence is a model of a reasoned decision for purposes of Section 422(a) of the Act.

Claimant's reasoned decision contention is nothing more than argument that the WCJ should not have rejected Claimant's theory on causation. Claimant disagrees with the WCJ's decision, but this does not mean that the decision is not reasoned. The WCJ has made all the explanations necessary for effective appellate review.

We next address Claimant's argument that the WCJ did not issue a reasoned decision because her findings of fact are not consistent with the "evidence in its entirety." Petitioner's Brief at 24. Claimant concedes that the WCJ provided a detailed description of the evidence. However, she contends that the WCJ either mischaracterized evidence or selectively omitted evidence that did not fit the WCJ's findings of fact. In support, Claimant points to numerous instances where the WCJ failed to account for all the evidence relevant to a particular finding of fact.⁶ Because of this failure, Claimant argues that the WCJ did not issue a reasoned decision.

⁶ Claimant identifies the following instances of examples of the WCJ's failure to reconcile all the evidence in making findings of fact:

1. The WCJ fails to identify the contents of the pre-employment examination, including that Claimant was required to undergo a comprehensive physical examination.
2. The WCJ mischaracterizes the significance of the fact that Claimant was wearing a bullet proof vest at the time of the incident, she was struck in the chest by a man twice her size, and that the assault resulted in a contusion.
3. The fact that Claimant was admitted to the hospital on May 20, 2003, during Claimant's attempt to return to work as a police officer, which Claimant asserts supports that her symptoms prevented her from functioning as a police officer.
4. The statement by Dr. Goodkin that a lay person would not understand the nature of Claimant's condition. Dr. Goodkin's testimony that Claimant's symptoms prior to the incident were different than the symptoms after the incident.

(Footnote continued on the next page . . .)

To understand Claimant’s “entirety of the evidence” argument, we consider one of the instances cited by Claimant. The WCJ credited Employer’s expert, Dr. Pentz, who testified that Claimant’s autonomic nervous dysfunction was not caused by her August 2002 chest trauma. Dr. Pentz testified that nothing in the medical literature supported this causation theory and, physiologically, he did not believe it possible. On cross-examination, Dr. Pentz conceded that nothing in the medical literature supported the reverse, *i.e.*, that a chest trauma could *not* cause autonomic nervous dysfunction. Because the WCJ failed to consider this “admission” of Dr. Pentz, Claimant argues that the WCJ failed to consider the “entirety of the evidence” in derogation of her duty to issue a reasoned decision.

Dr. Pentz’s so-called “admission” was not harmful to Employer’s case. It is the absence of any reports in the medical literature connecting chest trauma with autonomic nervous system that is significant. The fact that medical science has not undertaken to disprove a theory that has no currency only makes Dr. Pentz’s observation more, not less, persuasive. In any case, the WCJ did not explain her credibility determination solely on the basis of the medical literature. Dr. Pentz also stated that there was no way to correlate a chest trauma to the onset

(continued . . .)

5. The WCJ failed to mention that Dr. Pentz only reviewed Dr. Goodkin’s 1998 report at the time of his deposition. (Claimant asserts that Dr. Pentz did not review any of Claimant’s records prior to his deposition; however, this is contrary to Dr. Pentz’s testimony that he reviewed Claimant’s medical records from Dr. Goodkin. *See* R.R. at 277a.)
6. The WCJ failed to note that Dr. Pentz admitted that, although there was no literature or studies to support the theory, there was no literature to refute the theory that severe trauma could cause autonomic nervous dysfunction.

Petitioner’s Brief at 24-29. Claimant also argues that the Board erred in not addressing each and every one of the above-listed points.

of autonomic nervous dysfunction. Indeed, Dr. Goodkin, Claimant's expert, was not able to provide such an explanation, as noted by the WCJ. All Dr. Goodkin could do was point to the proximity in time of the trauma and Claimant's diagnosis. This is a hoary logical fallacy known as "*post hoc ergo propter hoc*," or confusing sequence with consequence. In light of the fact that Claimant showed symptoms of her autonomic nervous dysfunction as early as 1998, before Claimant suffered the chest trauma, there is no clear temporal connection between Claimant's trauma and her autonomic nervous dysfunction.

In short, what Claimant calls the "entirety of the evidence" is nothing more than a call for a very exacting standard for the reasoned decision requirement. Unfortunately for Claimant, this Court has rejected such a standard.

As explained above, a decision is "reasoned" if it allows for adequate appellate review under the applicable standards of review. *Daniels*, 574 Pa. 61, 76, 828 A.2d 1043, 1052. This does not mean that a WCJ must provide a line-by-line exegesis of every shred 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' Comp. Appeal Bd. (Brown), 890 A.2d 21, 26 (Pa. Cmwlth. 2006). Thus, a WCJ need not address every statement by each witness and every statement in every document admitted into evidence in order for the decision to be reasoned. Rather, the WCJ must state and explain her findings of

fact and resolve, to a reasonable degree, conflicts in the evidence.⁷ The WCJ did so in this case.

Here, Claimant has identified a number of statements and documents, such as Claimant's pre-employment examination, that Claimant contends were contrary to the WCJ's findings of fact. Whether they were "contrary" requires one to accept Claimant's characterization of their significance. The WCJ is not required to address why she does not accept a party's interpretation or inference from the evidence in order to satisfy the reasoned decision requirement. *Acme*, 890 A.2d at 26. The reasoned decision requirement does not impose such a burden to the fact-finding process.

Again, it appears that Claimant's real argument is that the WCJ should have made different factual findings on the basis of the evidence presented. However, a WCJ's factfindings are binding upon this Court unless arbitrary and capricious. *PEC Contracting Engineers v. Workers' Compensation Appeal Board (Hutchinson)*, 717 A.2d 1086, 1089 (Pa. Cmwlth. 1998). Claimant does not argue that the WCJ was arbitrary and capricious in her fact-finding, and we see no basis for making such a conclusion.

Based on the foregoing, the adjudication of the Board is affirmed.

MARY HANNAH LEAVITT, Judge

⁷ Notably, the "presence of conflicting evidence in the record does not mean that substantial evidence is lacking." *Allied Mechanical & Electrical, Inc. v. Pennsylvania Prevailing Wage Appeals Board*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

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 v. :
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 Respondent :

No. 309 C.D. 2008

ORDER

AND NOW, this 29th day of August, 2008, the order of the Workers' Compensation Appeal Board dated February 8, 2008, in the above-captioned matter is hereby AFFIRMED.

MARY HANNAH LEAVITT, Judge