

In the Matter of the Compensation of  
**BECKY S. GIBSON, Claimant**  
WCB Case No. 05-04616, 05-04527  
ORDER ON REVIEW

Schoenfeld & Schoenfeld, Claimant Attorneys  
Johnson Nyburg & Andersen, Defense Attorneys  
Bruce A Bornholdt, SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Lowell and Kasubhai.

Claimant requests review of that portion of Administrative Law Judge (ALJ) Rissberger's order that upheld Liberty Northwest Insurance Corporation's denial of claimant's occupational disease claim for a pelvic condition. On review, the issue is responsibility.<sup>1</sup>

We adopt and affirm the ALJ's order with the following supplementation.

In determining responsibility, the ALJ applied the last injurious exposure rule (LIER). In upholding Liberty's denial, the ALJ found that Dr. Casperson, who examined claimant at Liberty's request, persuasively established that her work activities after October 1, 2004, while SAIF insured the employer, contributed to her condition.

On review, claimant contends that Dr. Casperson changed his opinion without explanation and, as such, his opinion is insufficient to establish that claimant's employment after October 1, 2004 actually contributed to her condition. Because claimant initially treated while Liberty provided coverage to the employer, claimant argues that Liberty is responsible for the claimed pelvic condition and cannot shift responsibility to SAIF. For the following reasons, we disagree.

In Dr. Casperson's examination report, he indicated that there was nothing in the record that would indicate that claimant's condition had become "much worse" after October 1, 2004, but that the condition "cannot help but gradually become worse" the more claimant was on her feet. (Ex. 57-3). Thereafter, Dr. Casperson clarified that statement, explaining that claimant's return to work had "nothing to

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<sup>1</sup> Claimant does not contest that portion of the ALJ's order that dismissed claimant's hearing request from the SAIF Corporation's denial as untimely filed.

do with the subsequent erosion of the strip,” a device placed in a previous surgery. (Ex. 58-1). However, Dr. Casperson further explained that, although claimant’s work activities after October 1, 2004, did not contribute to the “sling” erosion, they did contribute to a worsening of her condition. (Ex. 58-2).

After reviewing Dr. Casperson’s opinion, we conclude that he has consistently opined that claimant’s “post-October 1, 2004” work activity contributed to her condition. Therefore, we disagree that Dr. Casperson “changed” his opinion and find that claimant’s work activities after October 10, 2004 actually contributed to a worsening of her condition. *Compare Kelso v. City of Salem*, 87 Or 630, 634 (1987) (physician’s changed opinion persuasive, because Board found in the record a reasonable explanation for changed opinion); *see also, Reynolds Metals v. Rogers*, 157 Or App 147, 153 (1998), *rev den* 328 Or 365 (1999) (“the initially responsible insurer can transfer liability to a subsequent insurer by establishing that the subsequent employment actually contributed to a worsening of the condition”); *Paulino C. Dela Cruz*, 55 Van Natta 3588, 3592 (2003). Therefore, we affirm.

#### ORDER

The ALJ’s order dated November 9, 2005 is affirmed.

Entered at Salem, Oregon on February 23, 2006