
In the Matter of the Compensation of
MICHAEL J. FEDR, Claimant
WCB Case No. 15-00641
ORDER ON REVIEW
Hitt et al, Claimant Attorneys
Cummins Goodman et al, Defense Attorneys

Reviewing Panel: Members Johnson and Somers. Member Weddell dissents.

Claimant requests review of Administrative Law Judge (ALJ) Otto's order that upheld the self-insured employer's denial of claimant's occupational disease claim for bilateral carpal tunnel syndrome. On review, the issue is compensability.

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

Claimant, a delivery truck driver, began working for the employer in 1998. (Tr. 3). His job duties included delivering snack products and stocking store shelves. (Tr. 8). Stocking, which involved removing bags of chips from a box and placing them on the shelves, was the most hand-intensive part of his work. (*Id.*) For 11 years, he drove a 28-foot truck and made 3 deliveries a day. (Tr. 11). More recently, he drove a smaller truck and made 8 to 11 stops a day, delivering an average of 150 to 200 bags of chips per stop. (Tr. 11, 12).

On November 21, 2014, claimant filed an occupational disease claim for bilateral carpal tunnel syndrome. (Ex. 20). On December 4, 2014, he saw Dr. Ruesch, an orthopedic surgeon, who evaluated him for bilateral median nerve compression and recommended operative releases. (Ex. 21).

On December 30, 2014, Dr. Button, a hand surgeon, performed an examination at the employer's request. Dr. Button agreed with Dr. Ruesch's recommendation of staged bilateral carpal tunnel releases, but opined that claimant's bilateral carpal tunnel syndrome was due to obesity, hypertension, and a positive family history, and not to work activities, which he described as physically light and varied. (Ex. 23-7, -9). On January 5, 2015, Dr. Ruesch concurred with Dr. Button's findings and conclusions. (Ex. 24).

On January 8, 2015, the employer denied the claim. (Ex. 25). Claimant requested a hearing.

On April 2, 2015, claimant consulted Dr. Woolley, a hand surgeon, who concluded that his carpal tunnel syndrome was probably work related. (Ex. 26-1). Dr. Woolley reasoned that the product stocking activity involved wrist flexion and extension, which compressed and placed traction in the median nerve, leading to carpal tunnel syndrome. (*Id.*) Dr. Woolley also opined that the gripping and lifting involved in such activities put additional pressure on the nerve. (Ex. 26-2). He acknowledged claimant's "elevated BMI [body mass index]," but concluded that claimant's work activities contributed more significantly, observing that his electrodiagnostic studies had worsened as he continued to work. (*Id.*)

On April 28, 2015, Dr. Button opined that claimant's nerve conduction studies were entirely consistent with the natural progression of carpal tunnel syndrome. (Ex. 28-2). He also reasoned that the wrist and hand demands associated with claimant's job did not require a forceful grip in full (or nearly full) flexion or extension and were not likely a causal factor. (Ex. 28-3). He acknowledged having reviewed Dr. Woolley's April 5, 2015 report and disagreed with Dr. Woolley's claim that the hand and finger movements involved in stocking product would affect the median nerve. (Ex. 28-4). Further, noting that Dr. Woolley recorded a "new" history of gout, Dr. Button opined that, if the history was accurate, the inflammatory disease would also contribute to the causation of claimant's bilateral carpal tunnel syndrome. (*Id.*)

Additionally, Dr. Button criticized Dr. Woolley's evaluation of claimant's elevated body mass index, explaining that claimant's obesity was a more significant causative factor than Dr. Woolley indicated. (*Id.*) He also noted that Dr. Woolley did not address claimant's hypertension as a causative factor. (*Id.*) Ultimately, Dr. Button maintained that the major cause of claimant's bilateral carpal tunnel syndrome was a combination of non-work related factors, including obesity, hypertension, inflammatory disease (gout), and a family history of median neuropathy. (Ex. 28-5).

The ALJ upheld the denial based on the opinions of Dr. Button, as supported by Drs. Ruesch and Finch.¹ The ALJ reasoned that Dr. Button took into account all of the relevant contributing factors, whereas Dr. Woolley did not. The ALJ also noted that Dr. Woolley did not rebut Dr. Button's opinions.

¹ Dr. Finch performed nerve conduction studies in 2011 and 2014 and referred claimant to Dr. Ruesch in 2014. (Exs. 12, 19). Dr. Finch, in a concurrence report dated April 23, 2015, agreed that he had no reason to disagree with Dr. Button's opinion as to the cause of claimant's carpal tunnel syndrome, and then further commented that he deferred to Dr. Ruesch's opinion. (Ex. 27).

On review, claimant contends that Dr. Woolley's opinion persuasively established compensability. He also asserts that Dr. Button's analysis relied on disputed evidence that is not supported by the record. For the following reasons, we affirm the ALJ's decision to uphold the employer's denial.

To establish the compensability of his claim, claimant must show that employment conditions were the major contributing cause of the occupational disease. ORS 656.266(1); ORS 656.802(2)(a). Evaluation of the major contributing cause requires consideration of all contributing causes and a determination of what cause, or combination of causes, contributed more than all other causes combined. See *Smother's v. Gresham Transfer, Inc.*, 332 Or 83, 133-34 (2001); *Dietz v. Ramuda*, 130 Or App 397, 401-02 (1994), *rev dismissed*, 321 Or 416 (1995).

The major contributing cause of claimant's bilateral carpal tunnel syndrome is a complex medical question that must be resolved by expert medical evidence. *Barnett v. SAIF*, 122 Or App 279 (1993). When presented with disagreement among experts, we give more weight to those opinions that are well reasoned and based on complete information. *Somers v. SAIF*, 77 Or App 259, 263 (1983).

Here, in evaluating the major contributing cause of claimant's carpal tunnel syndrome, Dr. Woolley considered the nature of his hand/wrist use in performing work activities, the absence of other hobbies or sports "that over use his hands or wrists," his "elevated BMI," and the electrodiagnostic studies. (Ex. 26). However, Dr. Woolley did not address claimant's hypertension, gout, or positive family history, which Dr. Button identified as contributing causes. (Ex. 28-4, -5). See *SAIF v. Strubel*, 161 Or App 516, 521 (1999) (medical expert must take into account all contributing factors in order to determine their relative weight when determining major contributing cause); *Janet Benedict*, 59 Van Natta 2406, 2409 (2007), *aff'd without opinion*, 227 Or App 289 (2009) (medical opinion unpersuasive when it did not address contrary opinions). Moreover, Dr. Woolley did not explain why he considered claimant's work activities to contribute more significantly than his elevated body mass index. See *Moe v. Ceiling Sys, Inc.*, 44 Or App 429, 433 (1980) (rejecting unexplained or conclusory opinion). Accordingly, Dr. Woolley's opinion is not sufficiently persuasive to meet claimant's burden of proof.

In challenging the ALJ's evaluation of Dr. Button's opinion, claimant argues that Dr. Button's depiction of his hypertension as "uncontrolled" is not supported by the record. Yet, although claimant testified that his blood pressure has been

“below normal” since he began taking medication, there is no expert medical opinion evidence to support that conclusion. To the contrary, Dr. Button observed that, when conducting the examination, claimant was “not in therapeutic range, even though on medication.” (Tr. 18; Ex. 23-6). Under these circumstances, we find no reason to discount Dr. Button’s opinion that claimant’s hypertension was a causative factor in the development of his carpal tunnel syndrome.²

Claimant also argues that the record does not support Dr. Button’s assumption that he had gout. We acknowledge that in 2011, Dr. Pape reported that claimant had never had gout. (Ex. 10). Yet, in 2014, Dr. Woolley reported that claimant was taking medication for gout. (Ex. 26-1). Dr. Button explained that gout is an inflammatory disease, which is a contributing cause for the development of carpal tunnel syndrome. (Ex. 28-4). Accordingly, we do not discount Dr. Button’s opinion for considering gout as a causative factor.

Finally, claimant argues that Dr. Button mistakenly believed that his job became less physically demanding in 2011 when, in fact, his job became more demanding. Yet, Dr. Button reported that claimant had described his job after 2011 “as having more variety, greater independence and less physical.” (Ex. 23-2). We acknowledge claimant’s testimony that his current job was more physical because he was getting in and out of his truck more. (Tr. 20). He also testified that he was handling “more smaller bags[.]” (*Id.*) He further identified the most “hand-intensive” part of his job as removing bags of chips from boxes and placing them on store shelves. (Tr. 8). After reviewing the history provided to Dr. Button, in conjunction with claimant’s testimony, we consider Dr. Button’s understanding of the nature of claimant’s hand/wrist-related job activities to be substantially accurate. (Ex. 23-7). *See Jackson County v. Wehren*, 186 Or App 555, 561 (2003) (a history is complete if it includes sufficient information on which to base the physician’s opinion and does not exclude information that would make the opinion less credible).

In sum, for the aforementioned reasons, and those expressed by the ALJ’s order, we find the opinion of Dr. Button to be more persuasive than that of Dr. Woolley. Accordingly, we conclude that claimant has not satisfied his burden of proving the compensability of his occupational disease claim. ORS 656.266(1); ORS 656.802(2)(a). Thus, we affirm.

² We lack specialized medical expertise to determine the state of claimant’s hypertension and must base our findings on medical evidence in the record. *SAIF v. Calder*, 157 Or App 224 (1998). We may draw reasonable inferences from the medical evidence, but may not make medical conclusions in the absence of such evidence. *Benz v. SAIF*, 170 Or App 22, 25 (2000).

ORDER

The ALJ's order dated May 26, 2015 is affirmed.

Entered at Salem, Oregon on January 5, 2016

Member Weddell dissenting.

The majority concludes that the opinion of Dr. Button is more persuasive than that of Dr. Woolley. Because I disagree with that conclusion, I respectfully dissent.

Claimant described work activity that required a lot of grabbing, pinching and wrist flexion and extension. (Tr. 12). He denied any hobbies or "off-work" activities that required him to use his hands. (Tr. 20, 21). His testimony was not disputed.

Dr. Woolley explained in detail how claimant's work activities caused the carpal tunnel syndrome. Dr. Woolley acknowledged that claimant's current work did not involve heavy lifting. He pointed out that claimant's long term work in delivery involved considerable lifting while loading and unloading boxes of product. (Ex. 26-1). He explained that the wrist flexion and extension performed during this activity compresses the median nerve leading to ischemia and producing carpal tunnel syndrome. (*Id.*) He believed that the gripping involved in these activities would also cause a compression of the median nerve. (*Id.*) He explained that these activities cause the flexor digitorum profundus tendon to retract through the carpal tunnel, which in turn pulls the lumbrical muscle proximally. The result is a constriction of the carpal canal increasing pressure on the median nerve and causing ischemia. (Ex. 26-2). I find this biomechanical explanation, which incorporates claimant's specific work activities as well as the doctor's medical expertise, to be thorough and well reasoned.

In contrast, Dr. Button's opinion lacked logical force. Specifically, he asserted that claimant's work activities were not causative because the nerve conduction studies did not improve after his delivery schedule changed. Yet, claimant described handling even more product (*i.e.*, more delivery stops, "more smaller bags") after his job changed. (Tr. 20). Without some explanation, Dr. Button's expectation of improvement with ongoing repetitive activity does not make sense.

Moreover, Dr. Button's assertions regarding claimant's work activities showed his opinion to be conclusory and based on advocacy. He asserted that claimant's work activity did not require his hands/wrists to be in flexion or extension "comparable to bench pressing or performing wrist curls in a weight room." (Ex. 28-3). He also argued that claimant's work activity did not involve making a "full fist with force." (*Id.*) Yet, other than identifying these extreme postures as being causative, he did not persuasively explain why the identified work activity could not cause the tendons and muscles to react as explained by Dr. Woolley.

Dr. Button's response also lacked adequate explanation regarding the conditions he identified as causing claimant's carpal tunnel syndrome. He made the general statement that "obesity is recognized as a four times greater risk factor for carpal tunnel syndrome," but he did not explain how claimant's weight contributed to the development of his carpal tunnel syndrome. (Ex. 23-6). Likewise, he made a general statement that "uncontrolled" hypertension results in fluid retention, but he did not explain how claimant's hypertension, which was under treatment, contributed to cause his carpal tunnel syndrome. (*Id.*) Finally, Dr. Button identified a positive family history as causative. Claimant testified that one sister, who worked as a grocery checker, had mild carpal tunnel syndrome. (Tr. 19). Dr. Button did not explain why such a scant family history would contribute more, in combination with obesity, gout, and hypertension, than claimant's repetitive work activity.

Although Dr. Woolley did not explicitly respond to Dr. Button's opinions in each and every particular, he had the same information about claimant's work activities, body habitus, and medical history. Dr. Woolley concluded that the work activity contributed more significantly to claimant's carpal tunnel syndrome. I find his opinion to be thoroughly explained and well reasoned. I find the contrary opinion of Dr. Button to be conclusory and lacking logic.

Accordingly, I conclude that the persuasive medical evidence shows that employment conditions were the major contributing cause of claimant's bilateral carpal tunnel syndrome. Because the majority finds otherwise, I respectfully dissent.