

---

In the Matter of the Compensation of  
**DANA CARTER, Claimant**  
WCB Case No. 15-05744  
ORDER ON REVIEW  
Alvey Law Group, Claimant Attorneys  
Lyons Lederer LLC, Defense Attorneys

Reviewing Panel: Members Lanning and Johnson.

Claimant requests review of Administrative Law Judge (ALJ) Jacobson's order that upheld the self-insured employer's denial of claimant's aggravation claim for a lumbosacral sprain/strain condition. On review, the issue is aggravation.

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

On review, claimant contests the ALJ's reasoning that Dr. Armerding, claimant's attending physician, was required to respond and/or rebut the persuasive and contrary medical opinion of Dr. Laycoe, an orthopedic surgeon who examined her at the employer's request. Specifically, she argues that such a requirement impermissibly increases the burden of proof to establish a compensable aggravation claim. We disagree.

Considering the disagreement between the medical experts regarding whether claimant's accepted condition had actually worsened, the claim presents a complex medical question that must be resolved by expert medical opinion. *See Johnson v. SAIF*, 194 Or App 689, 655 (2004) citing *Uris v. State Comp. Dep't*, 247 Or 420, 424 (1967) ("where injuries complained of are of such character as to require skilled and professional persons to determine the cause and extent thereof, the question is one of science and must necessarily be determined by testimony of skilled, professional persons" (internal citation omitted)), and *Kassahn v. Publishers Paper Co.*, 76 Or App 105, 109 (1985), *rev den*, 300 Or 546 (1986) (Board correctly concluded that complex medical questions must be answered through expert medical opinion in the context of an aggravation claim); *Randy S. Gehrs*, 64 Van Natta 2094 (2012).

Here, Dr. Laycoe opined that there was no clinical objective evidence of a worsening "actually, pathologically," and that claimant's symptoms were solely due to degenerative disc disease. (Ex. 15). Because Dr. Armerding did not sufficiently respond to or rebut Dr. Laycoe's opinion, we do not consider his opinion

sufficiently persuasive to establish the compensability of claimant's aggravation claim. *See Michael D. Fuller*, 64 Van Natta 627, 632 (2012) (physicians opinion was found less persuasive when it did not address contrary evidence in the context of an aggravation claim). Consequently, we affirm the ALJ's order that upheld the employer's denial.

ORDER

The ALJ's order dated May 30, 2017 is affirmed.

Entered at Salem, Oregon on November 1, 2017