

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 16-032

GARY D. SATCHER,
Claimant-Petitioner,

v.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY,
Employer-Respondent.

Appeal from a February 3, 2016 Compensation Order
by Administrative Law Judge Donna J. Henderson
AHD No. 14-080, OWC No. 676988

(Decided August 5, 2016)

Douglas A. Datt for Employer
David M. Snyder for Claimant

Before GENNET PURCELL, JEFFREY P. RUSSELL, and LINDA F. JORY, *Administrative Appeals*
Judges.

GENNET PURCELL for the Compensation Review Board.

DECISION AND ORDER

FACTS OF RECORD AND PROCEDURAL HISTORY

Gary Satcher ("Claimant") was employed as a crew chief in the fire hydrant inspection and repair section of the District of Columbia Water and Sewer Authority ("Employer"). Claimant's job duties were to inspect and repair fire hydrants. When needed, Claimant would dismantle fire hydrants and drive a small dump truck.

On December 7, 2010, Claimant sustained an injury to his left knee when "it popped" after he jumped out of his work truck. Claimant told his supervisor about the incident that afternoon and was instructed to "write a paper" about the incident. Claimant's left knee subsequently swelled up and he remained out of work for two (2) days.

On December 13, 2010, Claimant, who had a previously scheduled appointment with Joseph Avery, M.D., his primary care physician, informed Dr. Avery about his left knee pain. On exam,

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Dr. Avery noted that Claimant was positive for pain, swelling and an inability to bend his left knee and prescribed an x-ray and a knee brace.

Claimant followed up with Vestina M. Bridges, M.D., on December 20, 2010. Records of Claimant's treatment with Dr. Bridges did not refer to any work-related injury, but noted Claimant's 10 year history of left knee pain and treatment. Dr. Bridges diagnosed Claimant with severe left degenerative joint disease and a left medial meniscus tear.

Claimant had no documented follow-up treatment for his left knee until July 2, 2012, when Dr. Avery referred him to orthopedist Jeffery Sabloff M.D. Claimant's first visit with Dr. Sabloff was on July 26, 2012. The Administrative Law Judge ("ALJ") found that Dr. Sabloff did not take a full treatment history from Claimant prior to treatment, and provided conflicting testimony in the medical records regarding when he first became aware of Claimant's previous history of treatment to the left knee.

On September 19, 2012, Dr. Sabloff performed a left total knee replacement on Claimant. Over the course of Claimant's recovery, Dr. Sabloff also performed a manipulation and an arthroscopy in an attempt to increase the newly replaced left knee's range of motion.

On November 5, 2012, and again on November 10, 2015, Claimant underwent an Independent Medical Evaluation ("IME") by Robert Riederman, M.D. Dr. Riederman opined that Claimant's "advanced degenerative osteoarthritis [was] a preexisting condition, which was not in any way influenced or altered by the events which Claimant described on December 7, 2010." Dr. Riederman opined further that there was no causal relationship between the left total knee replacement and Claimant jumping out of the truck on December 7, 2010.

The issues presented to the ALJ at the December 9, 2015 formal hearing were:

1. Whether Claimant sustained an accidental injury to his left knee, which arose out of and in the course of his employment in December 2010?
2. Whether Claimant's left knee condition after July 2012 is medically causally related to the work related injury he suffered in December 2010?
3. Whether Claimant gave timely notice of his alleged December 2010 work-related injury?
4. Whether Claimant is temporarily totally disabled as a result of the work-related injury to his left knee sustained in December 2010?

The ALJ issued a Compensation Order ("CO") concluding that Claimant failed to establish that his left knee condition was medically causally related to the December 2010 work incident. The remaining issues were determined to be moot. *Satcher v. District of Columbia Water and Sewer Authority*, AHD No. 14-080, OWC No. 676988 (February 3, 2016).

Claimant timely appealed the CO to the Compensation Review Board (“CRB”) by filing Claimant’s Application for Review and Memorandum of Points and Authorities in Support of Application for Review (“Claimant’s Brief”). In his appeal Claimant asserted that:

the Compensation Order . . . determined, in error, that the Employer’s evidence in the form of Dr. Riederman’s defense medical evaluations severed the presumption of compensability that [Claimant] had invoked through his testimony and medical evidence.

Claimant’s Brief, Argument 1, page 8-9.

Employer opposed the appeal by filing Employer’s Opposition to Claimant’s Application for Review (“Employer’s Brief”). In its opposition, Employer requested an affirmation of the CO and asserted that the Claimant failed to establish his claim for relief based on the preponderance of the evidence.

ANALYSIS¹

Claimant asserts that the ALJ erred in concluding that Employer’s medical evidence “severed” the presumption of compensability Claimant invoked through his testimony and medical evidence. Specifically, Claimant contends that Dr. Riederman’s opinions were not specific and comprehensive enough to sever the presumption of compensability, as required under the Act.

Citing to the governing authority regarding the sufficiency of evidence required to rebut the presumption of the medical causal relationship between an injury and a work-related occurrence, the ALJ appropriately relied on the District of Columbia Court of Appeals’ (“DCCA”) holding in *Washington Post v. DOES* (“*Reynolds*”), 852 A.2d 909 (D.C. 2004):

[An] employer’s evidence is sufficient to rebut the presumption when it is rendered by a qualified medical expert who, having examined the employee and reviewed the medical records, and renders an unambiguous opinion that the work injury no longer contributes to the disability.

CO at 10.

Employer submitted the IME of Dr. Riederman as support for its defense of Claimant’s claim and to rebut the medical causal presumption. Dr. Riederman’s opinion, as summarized, stated:

¹ The scope of review by the CRB as established by the District of Columbia Workers’ Compensation Act (“Act”) and as contained in the governing regulations is limited to making a determination as to whether the factual findings of a Compensation Order on appeal are based upon substantial evidence in the record, and whether the legal conclusions drawn from those facts flow rationally from those facts and are otherwise in accordance with applicable law. D.C. Code §32-1521.01(d)(2)(A). “Substantial evidence” as defined by the District of Columbia Court of Appeals (“DCCA”), is such evidence as a reasonable person might accept to support a particular conclusion. *Marriott Int’l. v. DOES*, 834 A.2d 882 (D.C. 2003) (“*Marriott*”). Consistent with this scope of review, the CRB is also bound to uphold a Compensation Order that is supported by substantial evidence, even if there is also contained within the record under review substantial evidence to support a contrary conclusion, and even where the members of the CRB review panel considering the appeal might have reached a contrary conclusion. *Marriott*, 834 A.2d at 885.

“Clearly, the advanced degenerative osteoarthritis is a preexisting condition, which was not in any way influenced or altered by the events which Mr. Satcher described . . .”. CE 1 at 1.

Further, in his second IME opinion rendered on June 21, 2013, Dr. Riederman stated:

[Claimant’s] objective findings are those of advanced degenerative arthritis of the left knee, which clearly predated the events of December 8, 2010. While [Claimant] told me that he never had any injuries of complaints involving his left knee at any time before December 8, 2010, he presented to Dr. Bridges, the orthopaedic surgeon, on December 20, 2010, with a 10 year history of complaints of left knee pain...I do not believe the events of December 8, 2010, in any way contributed to [Claimant’s] left knee condition.

CE 1 at 5.

Dr. Riederman’s opinions are indeed unambiguous and definitive; they are sufficient to rebut the presumption of compensability in this case.

Claimant cited to the CRB’s 2012 decision in *Baker v. Aramark*, CRB No. 10-094, (January 23, 2012) as support for his assertion that the ALJ’s order should be reversed, stating that Dr. Riederman’s medical reports “could only have been specific and comprehensive enough to break the presumption of causation *if they explained an alternate mechanism* for how [Claimant] became disabled as well as why his knee popped when he stepped out of his work truck. . .” (emphasis added). Claimant’s Brief, page 12.

While we agree that a physician’s statement offered to rebut the presumption of causal relationship cannot stand alone, a specifically explained alternate theory of injury is unnecessary. Moreover, *Baker, supra*, does not require a rebuttal medical opinion to identify an alternative theory. What *Baker, supra*, does hold is the following:

. . . the mere statement of a physician’s opinion in opposition to the presumption is not sufficient to overcome the presumption. Where such an opinion is **unaccompanied by a discussion of the reasoning upon which it is based and where such a contrary opinion has been reached in the absence of a review of the relevant medical records** it does not constitute “substantial evidence” (emphasis added). See *Washington Metropolitan Area Transit Authority v. DOES and Harold Spencer, Intervenor*, 827 A.2d 35 (D.C. 2003) (“*Spencer*”).

In *Spencer, supra*, the DCCA indeed held that a doctor’s opinion was insufficient to rebut the presumption of causation. There is no similar pattern of errors and omissions in this case. In *Spencer, supra*, the doctor failed to review the pertinent medical records, subsequently based his opinion on a factual error that reading the records would have prevented, and then made a critical admission on the record, in his deposition, that further undermined his medical opinion. See *id.* at 42-44.

Dr. Riederman's June 21, 2013 IME of Claimant references Claimant's history of medical records reviewed in rendering his opinion and was sufficiently reasoned in accordance with the requirements outlined in *Reynolds, supra*. The Panel finds that Dr. Riederman's opinions were sufficient to rebut the presumption of medical causal relationship.

Claimant's Brief contains a continuing argument concerning the ALJ's duty, in the event of a specific and comprehensive rebuttal, to weigh the medical evidence without regard to the presumption; a task that the ALJ properly undertook and which, for clarity's sake, we summarize here again.

As is discussed in the CO, in weighing the medical evidence without the benefit of the presumption of medical causal relationship, the ALJ found the treating physician, Dr. Sabloff, rendered a deficient opinion in light of the following:

- (a) Dr. Sabloff was not made aware of Claimant's prior treatment history related to his left knee prior to offering his opinion as to the medical causal relationship of his injury;
- (b) Dr. Sabloff's records contemporaneous with treatment of Claimant's left knee stated Claimant's left knee condition was not work-related and noted 'no trauma';
- (c) Once notified, Dr. Sabloff misunderstood the mechanism of injury and incident alleged to have caused Claimant's left knee injury;
- (d) The record contained contradictory evidence addressing 'what' and 'when' Dr. Sabloff knew of the mechanism of injury and incident alleged to have caused Claimant's left knee injury; and as such,
- (e) Once offered, Dr. Sabloff's opinion as to medical causal relationship was flawed.

This confusion surrounding the when, what and how of the particular mechanism of injury at issue is significant in light of the fact that the medical causal relationship of Claimant's injury is contested, and more particularly, in light of Claimant's pre-existing left knee condition and history of treatment.

To further substantiate her analysis in accordance with the governing law on this matter, the ALJ considered the theory of aggravation of a pre-existing condition, noting the potential for compensability "even where non-employment factors may have contributed to a claimant's malady[.]" and her corresponding obligation to "give adequate consideration to evidence of a work-related injury and any recurrence, aggravation or exacerbation of injury thereafter. *Ferreira v. DOES*, 531 A.2d 651; *Brown v. DOES*, 700 A.2d 787, 791 (D.C. 1997). In doing so, she found that although Claimant had a pre-existing condition those "symptoms must be distinguished from those related to the incident at work." Further, that "without an expert opinion on causal relationship, Claimant's evidence related to the date of his work incident is merely "temporal" and otherwise fails to fill [the] medical causal relationship gap.

The ALJ afforded no weight to Dr. Sabloff's opinion on causal relationship, concluding that notwithstanding Claimant's testimony regarding the December 2010 incident, he failed to establish a medical causal relationship between the work incident and need for a left total knee replacement. CO at 13. Given that the record evidence supports the factual findings made by the ALJ, we agree.

We agree with the ALJ's determination that Dr. Riederman's IME unequivocally rebuts the presumption that Claimant's left knee injury is medically causally related to his early December work incident and is supported by substantial evidence; evidence which, pursuant to *Baker, supra*, was both reviewed and considered, by Dr. Riederman.

The Panel finds the ALJ properly analyzed the medical evidence of record in accordance with the law: First, affording Claimant the benefit of the presumption of a medical causal relationship, secondly, finding that Employer's medical evidence was sufficient enough to rebut the presumption, and thirdly, weighing the record evidence. The ALJ provided the specific and legitimate reasons required by law to reject the opinions of Dr. Sabloff and Claimant's other treating specialists, and concluded that Claimant did not prove by a preponderance of the evidence that a medical causal relationship existed between his left knee condition and the December 2010 work incident. The ALJ's conclusion that Claimant did not meet his burden of proof is supported by substantial evidence and is in accordance with the law.

We find no error in the ALJ's analysis, and affirm the Compensation Order.

CONCLUSION AND ORDER

The ALJ's conclusion that Claimant failed to meet his burden of establishing by a preponderance of the evidence that his current left knee condition is medically causally related to the work-related accident of December 7, 2010 is supported by substantial evidence and is in accordance with the law. The Compensation Order is **AFFIRMED**.

So ordered.