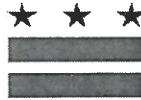


**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

Department of Employment Services

MURIEL BOWSER  
MAYOR



DEBORAH A. CARROLL  
DIRECTOR

COMPENSATION REVIEW BOARD

**CRB No. 16-071**

**KATARINA STRAUGHN,  
Claimant-Petitioner,**

v.

**WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,  
Employer-Respondent.**

Appeal from a May 2, 2016 Compensation Order  
of Administrative Law Judge Gerald D. Roberson  
AHD No. 16-103, OWC No. 720674

DEPT. OF EMPLOYMENT  
SERVICES  
COMPENSATION REVIEW  
BOARD  
2016 OCT 14 PM 11 52

(Decided October 14, 2016)

Krista N. DeSmyter for Claimant  
Mark H. Dho for Employer

Before LINDA F. JORY, HEATHER C. LESLIE and GENNET PURCELL, *Administrative Appeals Judges.*

LINDA F. JORY for the Compensation Review Board.

**DECISION AND ORDER**

**FACTS OF RECORD AND PROCEDURAL HISTORY**

Katarina Straughn (“Claimant”) has worked as a fleet servicer for Washington Metropolitan Area Transit Authority (“Employer”). Claimant's duties consist of maintenance, cleaning the engines, inspecting and supplying gas for the buses.

On September 25, 2014, Claimant hit her right knee against a metal beam while attempting to hang a fuel nozzle. She received treatment at George Washington University Hospital on September 25, 2014 for knee pain due to a direct blow from hitting her knee at work on a piece of metal. Claimant began treating with Dr. Rida Azer on October 1, 2014 who ordered a Magnetic Resonance Imaging (“MRI”) of the right knee. Dr. Azer also recommended Claimant keep wearing a knee brace. The MRI was performed on October 23, 2014 which showed a mild degree of tricompartmental osteoarthritis. Physical therapy was ordered by Dr. Azer as well as

right knee injections and Claimant was advised to avoid bending, stooping, prolonged, sitting, standing or walking stairs, lifting heavy items and hazardous situations.

On November 10, 2014, Dr. Azer remarked Claimant was eager to work and he returned her to full duty the following week and provided another right knee injection. The injection provided temporary relief for a month. On December 8, 2014, Claimant had pain in the medial aspect of the right knee and her patella. Dr. Azer refused to give Claimant another injection but filled prescriptions for Tylenol and Celebrex, kept Claimant on full duty and advised her to wear her knee brace.

Claimant still had pain and swelling in her right knee when she returned to Dr. Azer on January 16, 2015. Claimant did receive another injection of DepoMedrol, Carbocaine and Marcaine and advised to start physical therapy. On April 23, 2015, Dr. Azer found Claimant was not improving and had marked pain in the patellofemoral region and pain and crepitus on patellofemoral compress. Dr. Azer indicated Claimant was scheduled for arthroscopy surgery of the right knee. While awaiting authorization for surgery, Dr. Azer prescribed another knee brace for temporary pain relief.

On June 8, 2015, Dr. David Johnson, an orthopedic surgeon, performed an independent medical examination for Employer. Dr. Johnson offered the impression of right knee contusion from the incident of September 25, 2014, with preexisting Pelligrini-Stieda disease, (calcification of the medial collateral ligament from an older injury), with possible quadriceps tendon partial tear of the right knee. Dr. Johnson did not have the report or actual films of the MRI from October 23, 2014, but suspected a possible partial tear to the distal quadriceps, which was possibly responsible for Claimant's subjective complaints and weakness.

Claimant underwent an MRI of the right knee on July 31, 2015, which revealed no evidence of medial or lateral meniscus tear and that all of the ligaments remained intact. On September 8, 2015, Dr. Johnson provided an addendum concerning his review of the July 31, 2015 MRI. Dr. Johnson determined that the changes shown on the MRI are degenerative in nature and not traumatic in nature. Specifically, Dr. Johnson found the MRI scan showed no tear of the quadriceps tendon or patellar tendon.

On September 18, 2015, Dr. Azer obtained x-rays of the right knee which showed subchondral sclerosis, and the patella in a satisfactory position with no evidence of patella alta or patella infera. Dr. Azer stated that Claimant had internal derangement of the right knee with a partial tear of the quadriceps insertion into the patella.

On October 16, 2015, Dr. Brett Fink performed a utilization review on behalf of Employer.

On November 8, 2015, Dr. Johnson authored another addendum wherein he stated the original MRI scan of October 23, 2014 was unchanged from that of July 31, 2015, indicated that the injury of September 25, 2014 did not accelerate the pre-existing arthritis, and that her current symptoms are related to his pre-existing arthritis. Claimant still had pain and swelling in her right knee when Dr. Azer examined her on March 21, 2016.

At a formal hearing conducted on April 20, 2016 by an administrative law judge ("ALJ") in the Administrative Hearings Division ("AHD"), Claimant sought temporary total disability ("TTD")

benefits from December 5, 2015 to January 4, 2016, authorization for right knee arthroscopy and other causally related medical expenses.

On May 2, 2016, the ALJ issued a Compensation Order (“CO”) denying Claimant’s claim, as he concluded Claimant had not established the proposed right knee arthroscopy is medically causally related to the work incident of September 25, 2014 and did not establish entitlement to TTD benefits.

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 her appeal Claimant asserts that the CO’s rejection of Dr. Azer’s opinion in favor of Dr. Johnson’s opinion is not supported by substantial evidence and must be reversed.

Employer opposed the appeal by filing Employer’s Opposition to Claimant’s Application for Review (“Employer’s Brief”). In its opposition, Employer requests an affirmation of the CO and asserts that the CO is in accordance with prevailing law and is supported by substantial evidence.

#### ANALYSIS

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.

Employer was contesting the medical causal relationship of Claimant’s request for additional surgery to the right knee and additional disability to the original injury to the right knee, and the ALJ properly provided Claimant the presumption of compensability afforded her pursuant to § 32-1521 of the Act. Claimant asserts the ALJ erred in finding Employer rebutted the presumption, explaining:

The Compensation Order relies on the following statement from Dr. Johnson’s November 8, 2015 addendum: “The original MRI scan of October 23, 2014 was unchanged from that of July 31, 2015, indicating that the injury of September 25, 2014 did not accelerated the pre-existing arthritis, and that her current symptoms are related to is pre-existing arthritis”. The Compensation Order relies on this rationale as both evidence that the presumption of compensability has been rebutted and to defeat causation. This statement, however, is logically inconsistent. The MRI scan of October 23, 2014 was performed after the work

injury happened, so there is no way to compare the pre-injury internal analysis of Ms. Straughn's knee to the post-injury internal analysis. Thus, Dr. Johnson's medical opinion is nonsensical and thus cannot be substantial evidence in opposition to the causal relationship between the work injury of September 25, 2014 to Mr. Straughn's right knee and the current problems Ms. Straughn suffers in her right knee. This evidence is not firm and unambiguous, since it is founded upon a logical fallacy; that Ms. Straughn's October 2014 MRI was unchanged from non-existent pre-injury MRI. As the opinion is not specific or comprehensive enough to break the presumption of compensability, the September 25, 2015 injury must be presumed to be causally related to her current disability.

Claimant's Brief at 9 (citations omitted).

The ALJ outlined chronologically what Dr. Johnson reported in his initial report and his two subsequent addendums and concluded that Employer rebutted the presumption:

On November 8, 2015, Dr. Johnson stated "The original MRI scan of October 23, 2014 was unchanged from that of July 31 2015, indicating that the injury of September 25, 2014 did not accelerate the pre-existing arthritis, and that her current symptoms are related to [her] pre-existing arthritis. She may have had a temporary exacerbation of symptoms from the contusion but her knee examination has remained stable, and she was allowed to return to full-duty work as of November 17, 2014." EE 1, pp. 1-2. With the medical evidence from Dr. Johnson, Employer has rebutted the presumption of compensability regarding medical causal relationship. Therefore, Claimant loses the benefit of the statutory presumption, and the record medical evidence must be weighed without further reference thereto.

There is no question that the injury of September 25, 2014 precedes the two MRIs, compared by Dr. Johnson in arriving at his conclusion, nevertheless we conclude that Dr. Johnson's opinion satisfies the standard set forth by the Court of Appeals in *Washington Post v. D.C. Department of Employment Services and Raymond Reynolds, Intervenor*, 852 A.2d 909 (D.C. 2004) (*Reynolds*) (An employer meets its burden to rebut the presumption of causation when it has proffered a qualified independent medical expert who, having examined the employee and reviewed the employee's medical records, renders an unambiguous opinion that the work injury did not contribute to the disability).

In addition to the above statement Dr. Johnson made on November 8, 2015, quoted by the ALJ, and challenged by Claimant, Dr. Johnson added:

Therefore, any temporary symptomatic exacerbation of the pre-existing arthritis had resolved by November 17, 2014 and her current complaints are related to the pre-existing condition of arthritis in the knee and not due to any injury that was caused, aggravated, or accelerated by the incident of September 25, 2014.

We do not agree that Dr. Johnson's opinion is nonsensical or logically inconsistent because a pre-injury MRI does not exist and we find no reason to disturb the ALJ's determination that Employer met its burden pursuant to *Reynolds* of providing an unambiguous opinion that the work injury no longer contributes to Claimant's condition or disability.

With regard to the ALJ's weighing of the evidence without the benefit of the presumption Claimant continues to assert the ALJ relied on the MRI reports to reject Dr. Azer's causation opinion. We disagree. The ALJ explained:

On July 9, 2015, Dr. Azer reported Claimant had tenderness and a palpable gap suggestive of a tear in the right quadriceps. Dr. Azer offered the impression of internal derangement together with a partial tear of the quadriceps. Dr. Azer recommended a MRI of the right knee and suggested that the arthroscopy would not be for the quadriceps injury stating "The patient's condition in the right knee itself will need arthroscopic surgery. If there is a tear in the quadriceps, this will need a small incision for reconstruction." CE 1, p. 18. As noted above, Claimant underwent a [sic] MRI of the right knee on July 31, 2015, which showed no evidence of medial or lateral meniscus tear, ligament injury or quadriceps tear. CE 2. Dr. Johnson reviewed the MRI on September 8, 2015 and reported there is no tear of the extensor mechanism, specifically there is no tear, partial or complete, of the quadriceps tendon or patella tendon. EE 1, p. 3. He stated the MRI findings documented degenerative changes, and the menisci and all ligaments remained intact. Dr. Johnson stated Claimant does not require surgery for repair of the quadriceps tendon, and arthroscopic procedure is not likely to provide any benefit in light of the arthritis that is present and loss of cartilage beneath the patella. EE 1, p. 3. While Dr. Azer reviewed the MRI on August 6, 2015, he only referenced the grade 4 chondromalacia and tricompartmental osteoarthritis without discussing the quadriceps tear. Dr. Azer indicated Claimant would require arthroscopy surgery in the future, but failed to offer any supportive medical rationale. CE 1, p. 15.

CO at 7.

The ALJ reiterated his position that Dr. Azer did not explain why the arthroscopic surgery was related to the September 24, 2014 injury, let alone necessary:

In terms of the medical rationale advanced by Dr. Azer as the basis for undergoing the arthroscopic procedure in his July 9, 2015 report, the medical evidence does not support his conclusions because the diagnostic evidence establishes Claimant does not have a medial or lateral meniscus tear, a ligamentous injury or a quadriceps tear. Dr. Azer has not offered an opinion regarding whether the work incident caused or aggravated the preexisting arthritis and chondromalacia. Dr. Johnson provided the only opinion regarding these conditions and he found them to be unrelated to the work incident of September 25, 2014. Therefore, Claimant has not established the proposed right knee

arthroscopy is medically causally related to the September 25, 2014 work incident.

*Id.*

We agree with the ALJ that Dr. Azer failed to offer any supporting medical rationale for his persistent recommendation that Claimant undergo an arthroscopic procedure and we reject Claimant's attempt to fill the void in her evidence with her own testimony. See Claimant's Brief at 10. The ALJ's conclusion that Claimant has not established the proposed right knee arthroscopy is medically causally related to the work incident of September 25, 2014 is supported by substantial evidence and is in accordance with the law and is affirmed.

As Claimant has not challenged the ALJ's conclusion that Claimant failed to establish entitlement to temporary total disability benefits from December 5, 2015 to January 4, 2016 and this conclusion is also affirmed.

#### CONCLUSION AND ORDER

The May 2, 2016 Compensation Order is supported by substantial evidence and is in accordance with the law and is hereby AFFIRMED.

*So ordered.*