

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 16-106

PHYLLICE GILES,
Claimant–Petitioner,

v.

ST. PHILLIPS EPISCOPAL CHURCH and
LIBERTY MUTUAL INSURANCE COMPANY,
Employer/Insurer-Respondent.

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2016 DEC 14 AM 8 41

Appeal from a July 22, 2016 Compensation Order on Remand
by Administrative Law Judge Joan E. Knight
AHD No. 10-481C, OWC No. 669911

(Decided December 14, 2016)

Matthew Pfeffer for Claimant
Christopher R. Costabile for Employer

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

GENNET PURCELL for the Compensation Review Board.

DECISION AND ORDER

BACKGROUND AND FACTS OF RECORD

Phyllice Giles (“Claimant”) was employed by St. Phillips Episcopal Church (“Employer”) as a cook and daycare provider.

On May 3, 2010, Claimant slipped and fell at work on a wet floor. Employer voluntarily paid temporary total disability (“TTD”) and provided medical care from the date of the injury until April 4, 2011, when Employer ceased paying TTD and providing ongoing medical care, based upon the results of an independent medical evaluation (“IME”) that determined that Claimant’s current symptoms were no longer related to the May 3, 2010 slip and fall.

Claimant sought the reinstatement of TTD benefits, treatment and medical care at a formal hearing held before an administrative law judge (“ALJ”) in the Department of Employment Services (“DOES”) on July 8, 2015. The issues in dispute were (1) whether Claimant’s current

knee condition was causally related to the injury of May 3, 2010, and, if so (2) whether the recommended procedure of bilateral knee replacement surgery was reasonable and necessary.

On October 2, 2015, the ALJ issued a Compensation Order (“CO”) in which the ALJ concluded Claimant’s current knee condition was not causally related to her work accident. Because the ALJ’s decision was premised upon her legal conclusion that the current condition of Claimant’s knees was not causally related to the stipulated work-related injury, the issue concerning reasonableness and necessity was not addressed in the CO. *Giles v. St. Phillips Episcopal Church*, AHD No. 10-481C, OWC No. 669911 (April 14, 2016).

Claimant appealed. In a Decision and Remand Order (“DRO”) dated April 14, 2016, the Compensation Review Board (“CRB”) held that the CO was legally deficient in that it did not conduct a complete analysis on the issue of causal relationship, and vacated the CO’s denial of the claimed benefits and remanded the matter for further consideration.

On July 22, 2016, a Compensation Order on Remand (“COR”) issued. The COR concluded that the record evidence did not support the conclusion that Claimant’s present bilateral knee condition was medically causally related to the accidental work injury of May 3, 2010, and again, denied Claimant’s claim.

Claimant timely appealed the COR. Claimant filed Claimant’s Application for Review and Memorandum of Points and Authorities arguing that the COR reflects errors of law and fact and is not supported by substantial evidence. (“Claimant’s Brief”).

Employer opposed the appeal by filing Employer’s Opposition to Claimant’s Application for Review (“Employer’s Brief”). In its opposition, Employer asserted the COR is supported by substantial evidence and law and should be affirmed.

ANALYSIS

Claimant’s first argument on appeal asserts the ALJ improperly rejected the opinion of Dr. Brian Evans, Claimant’s treating physician.

Claimant argues:

The [COR’s] reasons for rejecting the treating physician are not supported by the substantial evidence in the record. The [COR] said that Dr. Evans’ narrative report, requested at the behest of [Claimant] was “vague and lacks the necessary detail and specificity to make a determination of the cause of [Claimant’s] current knee problems”, despite Dr. Evans having said “she has significant osteoarthritis of both knees in the setting of significant obesity...unfortunately, she sustained an injury while at work when she took a fall. This created an increase in pain and reduction in her overall ambulatory tolerance.” Dr. Evans’ report is anything but vague and lacking in detail. Dr. Evans pointed out that [Claimant] was morbidly obese, and her subsequent fall damaged already weakened-areas of her body. The mechanics behind [Claimant’s] disability as ascertained by Dr. Evans, are easy to discern and do not require much more discussion than that provided by Dr. Evans.

Claimant's Brief at 10.

Employer asserts that the ALJ properly rejected Dr. Evans' treating physician opinion on which Claimant relies for her causation argument.

The reasons listed for the ALJ's rejection of Dr. Evans' opinion were clearly set forth in the COR. The ALJ reasoned:

In weighing the evidence absent the presumption, I reject Dr. Evan's [sic] opinion for the following reasons: Dr. Evans does not explain his statement and opinion regarding medical causal relationship with sufficient reasoning to support his opinion. Claimant testified that did she [sic] not inform Dr. Evans that she slipped and fell on her knees at work sustaining multiple injuries to her knees and other body parts, "...because she wanted a clear reading and evaluation of [her] knees." Thus, it is evident that Dr. Evans was unable to render an assessment and provide a medical opinion relating Claimant's condition contemporaneous with examination that relates her knee condition to her work injury. It was not until a letter to Claimant's counsel, dated May 28, 2015, when Dr. Evans opined "Claimant has significant osteoarthritis of both knees ... she sustained an injury when she took a fall at work." Dr. Evans opined this [fall] exacerbated her symptoms creating an increase in pain and reduction in overall ambulatory tolerance". CE 1 p. 10.

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In addition, Dr. Evans did not expound on his opinion or provide a detailed medical explanation of the medical causal relationship of Claimant's significant bilateral osteoarthritis of the knees or any exacerbation thereof. On this record, Dr. Evan's medical notes do not reflect the type of details essential to draw the necessary conclusions needed. Dr. Evan's [sic] opinions lack an explanation or rationale for his opinion to draw a conclusion that Claimant's ongoing and current bilateral knee condition is causally related to her employment injury. For these reasons, the medical opinion of Dr. Evans related upon by Claimant is rejected.

COR at 6.

Upon according treating physician status to the opinion of Dr. Evans and correctly citing to general rule regarding the treating physician preference and the specificity requirements associated with an ALJ's rejection of a treating physician opinion, *Stewart v. DOES*, 606 A.2d 1350 (D.C. 1992); *Golding-Alleyne v. DOES*, 980 A.2d 1209 (D.C. 2009), the ALJ set forth an analysis consistent with the remand instructions contained in the DRO. In *Golding-Alleyne*, the court upheld the rejection by an ALJ of an opinion of a treating physician holding that even in the absence of a contrary medical record, "[w]hen the medical records call into question the basis and reliability of the opinion rendered by the treating physician, the ALJ may be justified in finding that opinion unpersuasive". *Id* at 1214. The ALJ's summarization of the reasons for her rejection of Dr. Evans' opinion as support for Claimant's medical causal claim are clearly and

reasonably explained, flow rationally from the facts, based upon substantial evidence in the record and otherwise in accordance with applicable law. D.C. Code § 32-1521.01(d)(2)(A).

Claimant also asserts that the ALJ's analysis appeared to suggest that she held Employer's medical evidence to "a laxer standard of medical logic" than the standard to which Claimant's medical evidence was held. Claimant's Brief at 6. We reject Claimant's argument on this point.

We find the ALJ cited to statements offered by both Dr. Evans and Dr. Scheer in the rendering of their opinions, accurately summarized the medical opinions of each, discussed the IME's finding and her reasons for affording the greater evidentiary weight to Dr. Scheer's IME report in relation to the facts and findings of the case, and determined that Claimant had not met her burden by a preponderance of the evidence. We do not, in our review of the COR, detect any deviation from the legal standards which govern the ALJ's analysis and reject Claimant's argument on this point.

Claimant final argument asserts that the findings and conclusions of the COR failed to discuss the June 21, 2011 medical opinion of Dr. Klimkiewicz finding that Claimant suffered permanent impairment to her knees as a result of the May 3, 2010 work injury. Claimant argues Dr. Klimkiewicz's opinion supports Dr. Evans' causation opinion and the COR is not based on substantial evidence as a result of this failure. We disagree. The absence of a specific discussion of Dr. Klimkiewicz's 2011 report is not grounds for reversible error.

As Employer correctly argues:

First, the ALJ is not required to address every piece of evidence in the case in rendering the decision and claimant cites to no case that would require that. Second, the issue decided by the ALH related to causation of the need for bilateral knee replacement. The opinion of Dr. Klimkiewicz rendered in 2011 included a statement that the accident did not directly result in any possible need for future knee replacement.

Employer Brief at unnumbered page 3-4.

We agree with Employer's argument on this issue. A summarization of Dr. Klimkiewicz's opinion is not mandated under the law.

CONCLUSION AND ORDER

The ALJ's conclusion that Claimant's bilateral knee condition is not medically causally related to the accidental work injury of May 3, 2010, is **AFFIRMED**. The Compensation Order on Remand's denial of Claimant's claim for relief is supported by substantial evidence and in accordance with the law, and is therefore **AFFIRMED**.

So ordered.