

# GOVERNMENT OF THE DISTRICT OF COLUMBIA

## Department of Employment Services

MURIEL BOWSER  
MAYOR



DEBORAH A. CARROLL  
DIRECTOR

### COMPENSATION REVIEW BOARD

CRB No. 16-111

**ROLAUND LIMES,**  
**Claimant–Petitioner,**

v.

**WASHINGTON METROPOLITAN TRANSIT AUTHORITY,**  
**Self-Insured Employer–Respondent.**

Appeal from an August 1, 2016 Compensation Order by  
Administrative Law Judge Douglas A. Seymour  
AHD No. 13-427B, OWC No. 695066

DEPT. OF EMPLOYMENT  
SERVICES  
COMPENSATION REVIEW  
BOARD  
2017 JAN 4 PM 12 57

(Decided January 4, 2017)

David J. Kapson for Claimant  
Sarah O. Rollman for Employer<sup>1</sup>

Before HEATHER C. LESLIE, GENNET PURCELL, and JEFFREY P. RUSSELL, ADMINISTRATIVE  
*Appeals Judges.*

HEATHER C. LESLIE for the Compensation Review Board.

### DECISION AND ORDER

#### FACTS OF RECORD AND PROCEDURAL HISTORY

Claimant was employed as a Special Police Officer for Employer. On July 19, 2012, Claimant injured her right ankle during a training exercise. Claimant underwent conservative care. Because of continued problems, Claimant came under the care of Dr. H.S. Pabla. Dr. Pabla performed right ankle surgery in December 2013. Claimant continues to be under the care of Dr. Pabla for right ankle issues.

Pertinent to this appeal, Claimant began to experience back pain, radiating into her lower extremities. Claimant underwent several lumbar blocks. Claimant was referred to Dr. Amin Amini who recommended surgery which Claimant desires to undergo. Dr. Amini opined Claimant's back condition was medically causally related to her work injury.

---

<sup>1</sup> Cheryl D. Hale appeared on behalf of Employer before the Administrative Hearings Division Formal Hearing.

Claimant underwent an independent medical evaluation (“IME”) with Dr. Michael Salcman at the request of the Employer on October 19, 2015. Dr. Salcman took a history of Claimant’s injury and past medical conditions, reviewed medical records, and performed a neurological and physical examination. Dr. Salcman opined that Claimant’s current back complaints were unrelated to her work injury and that she did not require any treatment related to the work injury. Dr. Salcman further opined as far as Claimant’s back condition was concerned, Claimant was able to work full time, full duty.

A full evidentiary hearing occurred on June 7, 2016. Claimant sought authorization for back surgery as recommended by Dr. Amini. The issues to be adjudicated were whether Claimant’s back condition and need for surgery was medically causally related to the work injury and whether the proposed surgery was reasonable and necessary. A Compensation Order (“CO”) issued on August 1, 2016, denying Claimant’s claim for relief. The CO concluded Claimant failed to prove, by a preponderance of the evidence, that her back condition was medically causally related to the work injury.

Claimant timely appealed. Claimant argues that Dr. Salcman’s opinion is not specific or comprehensive enough to rebut the presumption of compensability. Claimant also argues the CO erred by finding Claimant did not suffer a twisting injury, thus the CO is not based upon the substantial evidence in the record and not in accordance with the law.

Employer opposes the appeal, arguing the findings of fact are supported by the substantial evidence and the conclusions reached in the CO flow rationally from the facts and should be affirmed.

#### ANALYSIS<sup>2</sup>

Prior to addressing Claimant’s arguments, it is useful to note how Claimant testified her injury occurred while under oath at the Formal Hearing. The following colloquies took place between counsel and Claimant:

Q: Just, I mean, I guess, can you explain what – how your body moved when your foot got caught in the pad?

A: It jerked. It jerked. My body jerked the right – to the right. But I caught my balance, ‘cause my feet was still in the pad.

Hearing transcript at 25-26.

---

<sup>2</sup> The scope of review by the Compensation Review Board (CRB) is generally limited to making a determination whether the factual findings of the Compensation Order are based on substantial evidence in the record, and whether the legal conclusions drawn from those facts are 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, 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). Consistent with this scope of review, the CRB and this panel are 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 reviewing authority might have reached a contrary conclusion. *Marriott*, 834 A.2d at 885

Q: Did you twist your back when this injury occurred?  
A: No.  
Q: Well, you testified earlier your body jerked to the right when your foot got caught.  
A: Right.  
Q: Is that what happened?  
A: Yes, right.  
Q: But your back didn't twist?  
A: No.

Hearing transcript at 42.

Claimant first argues that Dr. Salcman's description of the injury sustained is not in accordance with the findings of fact in the CO, and therefore his medical opinion is not specific or comprehensive enough to rebut the presumption of compensability. In so arguing, Claimant states that Dr. Salcman's description of the injury "neglected to mention the established twisting of Ms. Limes right ankle, and the consequential twisting of Ms. Limes' low back that the CO found (despite the use of a semantic distinction between 'twist' and 'jerk' that the CO fails to explain)." Claimant's brief at 8. We disagree.

The injury, as described by the ALJ in the findings of fact, is the following:

On July 19, 2012, Claimant was attending a training program to be certified to carry a baton. As she was proceeding down a line of fellow Officers as part of an exercise, her right foot became caught in a folded-up pad. Her right foot "locked" and her body "jerked" to the right but she did not fall. Claimant noticed immediate swelling and pain in her right ankle. HT 24-26. Claimant's back did not twist and, she did not strike, or fall on, her back. HT 42, 43.

CO at 3.

As quoted above, the ALJ referred to Claimant's testimony when describing the accident. Specifically, per the testimony, Claimant's body jerked when her foot was caught. She did not twist, strike, or fall on her back. Claimant's testimony as to the mechanism of the accident closely mirrors the description of the accident outlined in Dr. Salcman's report where he noted Claimant did not fall or suffer a direct blow to her back. We do not agree with Claimant's characterization of Dr. Salcman's description of the injury as being "absolutely wrong." Claimant's brief at 8.

Further, Claimant argues that Dr. Salcman's opinion "glosses over and ignores" medical records which support Claimant's position. Claimant's brief at 9. However, as Claimant concedes, Dr. Salcman notes that there are records which establish the presence of radiculopathy on the right. We do not agree that Dr. Salcman ignored medical records. We conclude that the ALJ's reliance on Dr. Salcman's report to rebut the presumption of compensability is supported by the substantial evidence in the record and in accordance with the law.

Claimant next argues the CO improperly rejected the medical opinion of Dr. Amini. In rejecting the opinion of Dr. Amini, the ALJ noted:

Claimant relies on her testimony, and on the opinions of Dr. Amini and Dr. Miller. Claimant asserts that Dr. Amini be accorded the treating physician preference. CWCA <sup>[3]</sup> at 4. Claimant testified that she first noticed numbness in her right big toe in 2013. Claimant testified that she did not develop back pain until February 2014. HT at 28, 32. Claimant also testified that although she "jerked" to the right when her right foot became caught in the pad on July 19, 2012, she credibly testified that she did not: 1. twist her back; 2. strike her back; 3. fall on her back; and, 4. experience low back and radicular pain before February 2014. HT at 42, 43.

In his July 30, 2015 report, Dr. Amini finds that Claimant had a "twisting injury". Dr. Amini further found that "...a few months later she started having back pain." CE 2.

Then, in his "To Whom It May Concern" report of November 10, 2015, Dr. Amini notes that "She described significant pain in her lower back that radiated to her right leg. Ms. Limes reported that her symptoms began shortly after a twisting injury that occurred while working in July 2012." Dr. Amini then opined that Claimant's current back condition is causally related to her work injury "...because the body mechanics of twisting an ankle yield the spine to an acute injury as the individual attempts to recover balance or brace a fall." Dr. Amini concluded that: "While degenerative disc disease is generally an expected age related finding, hers was not symptomatic until the injury and it is very probable that the bulging disc was a direct result of the twisting motion". CE 1.

To begin with, Dr. Amini's histories, as reflected in both his July 30, 2015 and November 10, 2015 reports, are flawed in several respects. First, by her own testimony, Claimant did not experience "...significant pain in her lower back that radiated to her right leg...shortly after a twisting injury." Second, again by her own testimony, Claimant did not experience a "...twisting motion" on July 19, 2012. Third, and perhaps most significantly, Dr. Amini's finding that "...all symptoms developed in the days after the injury and were not present previously..." is not supported by Claimant's testimony and the medical records. CE 1, HT 42, 43.

On the contrary, Claimant's big toe numbness did not develop, at the earliest, until February 2013, some seven months after the accident. Claimant's low back and radicular pain did not occur until February 2014, more than a year and a half after the accident. HT 28, 32.

---

<sup>3</sup> Claimant's Written Closing Argument.

Further, Dr. Amini concludes that while degenerative disc disease is usually associated with age, because Claimant was not symptomatic until the accident, it was "...very probable that the bulging disc was a direct result of the twisting motion." However, as found above, Claimant's big right toe numbness, and her low back and radicular pain did not, contrary to Dr. Amini's findings, develop until 7 months, and 18 months, respectively, after the July 19, 2012 accident. In addition, Claimant did not sustain a "twisting motion" when she injured her right ankle on July 19, 2012. HT 42, 43.

Moreover, there is also no indication in his July 30, 2015 report, or in his November 10, 2015 "To Whom It May Concern" report, that Dr. Amini reviewed any of Claimant's extensive medical records before rendering his medical causality opinion. Rather, it appears that Dr. Amini's history was derived solely from the history he took from the Claimant upon his only examination of her on July 30, 2015. CE 1, 2. Thus, I find Dr. Amini's medical causality opinion unsubstantiated because he did not review Claimant's extensive medical record before rendering his causality opinion.

I further find that Dr. Amini based his causality opinion on both an incorrect history of the mechanism of Claimant's July 19, 2012 accident, and on an incorrect history of Claimant's post-accident symptomatology. Accordingly, based on the above, I give little, if any, weight to Dr. Amini's medical causation opinion.

CO at 7-8 (Footnotes omitted).

The ALJ rejected Dr. Amini's opinion because Claimant's testimony did not support the mechanism of injury as described by Dr. Amini. The ALJ also rejected Dr. Amini's opinion because of the timing of Claimant's back complaints, which pursuant to the testimony of Claimant, was well after Dr. Amini's understanding of when these complaints began. Finally, the ALJ rejected Dr. Amini's opinion because of concerns over his medical record review. The ALJ gave several cogent reasons why Dr. Amini's opinion was rejected. We find no error in the above analysis and affirm the ALJ's rejection of Dr. Amini's opinion.

#### CONCLUSION AND ORDER

The August 1, 2016 Compensation Order is AFFIRMED.

*So ordered.*