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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-750

No. COA22-26

Filed 15 November 2022

Industrial Commission, I.C. No. 18-036773

DEBORAH C. HALL, Employee Plaintiff,

v.

PARKER HANNIFIN CORPORATION, (Employer) and OLD REPUBLIC INSURANCE COMPANY (Carrier), Defendant/Appellees.

Appeal by Deborah C. Hall from order entered 13 October 2021 by the Industrial Commission. Heard in the Court of Appeals 8 June 2022.

Levine Law Group, PA, Michael J. Levine and Cathy A. Williams, Attorneys for Plaintiff-Appellant

Hedrick, Gardner, Kincheloe and Garofalo, LLP, Joel K. Turner, Emily C. Pappas and M. Duane Jones, Attorneys for Defendant-Appellee

DILLON, Judge.

¶ 1

Plaintiff appeals from an order issued by the Industrial Commission denying her claim for worker's compensation. We affirm.

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I. Background

¶ 2 Deborah C. Hall (“Plaintiff”) was employed by Parker Hannifin Corporation (“Employer”) for twelve years. She developed mild carpal tunnel syndrome (“CTS”) from her employment and underwent two surgeries to treat this condition.

¶ 3 Employer subsequently filed a Form 24 Application to Terminate or Suspend Payment of Compensation, which was approved by the Industrial Commission (“Commission”). Plaintiff was seen shortly after by a Dr. Poehling for a second opinion. Dr. Poehling stated that Plaintiff’s CTS had been resolved via surgery but diagnosed her with complex regional pain syndrome (“CRPS”).

¶ 4 After a hearing, the Commission entered an order concluding Plaintiff had failed to establish that she had CRPS or that a causal connection existed between the CRPS and her employment. We affirm.

II. Analysis

¶ 5 On appeal, Plaintiff makes several arguments concerning the Commission’s determination that her CRPS was not a compensable injury.

¶ 6 First, we first address Plaintiff’s contention that the Commission erred in denying her motion to consider new evidence. This new evidence Plaintiff sought to introduce was the determination by the Social Security Administration (“SSA”) that she was disabled. The SSA determination was based on evidence similar to that offered by Plaintiff in the proceeding before the Commission.

¶ 7 Though the Commission did not state the reason for its denial, we cannot say that the Commission abused its discretion in denying Plaintiff's motion. Indeed, the decision and findings by SSA are not binding on the Commission. The decision by SSA is not based on a finding that Plaintiff's disability *was caused by* a work-related injury, and the Employer was not a party to the SSA matter. Accordingly, the Commission did not abuse its discretion by making its decision without considering the SSA's findings.

¶ 8 Next, we consider Plaintiff's contention the Commission erred by determining that Plaintiff failed to meet her burden of showing that her CRPS was caused by her employment. We must consider "whether competent evidence supports the Commission's findings of fact." *Richardson v. Maxim Healthcare*, 362 N.C. 657, 660, 669 S.E.2d 582, 584 (2008).

¶ 9 We review the record to determine if there was competent evidence to support the lower court's factual findings. Thus, for the purposes of our review, "[an appellate court] does not have the right to weigh the evidence and decide the issue on the basis of its weight. The court's duty goes no further than to determine whether the record contains any evidence tending to support the finding." *Anderson v. Lincoln Constr. Co.*, 265 N.C. 431, 434 144 S.E.2d 272, 274 (1965). We are mindful that "[t]he Commission is the sole judge of the credibility of the witnesses and the weight to be given their testimony." *Id.* at 433-34, 144 S.E.2d at 274 (1965).

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¶ 10 Employer accepted Plaintiff's claim that Plaintiff's CTS was caused by her employment. However, it was Plaintiff's burden to prove that her CRPS was caused by her employment, for example that her CPRS was a direct and natural consequence of her work-related CTS injury.

¶ 11 In cases involving "complicated medical questions far removed from the ordinary experience and knowledge of laymen, only an expert can give competent opinion evidence as to the cause of the injury." *Click v. Pilot Freight Carriers*, 300 N.C. 164, 167, 265 S.E.2d 389, 391 (1980). "However, when such expert opinion testimony is based merely upon speculation and conjecture, . . . it is not sufficiently reliable to qualify as competent evidence on issues of medical causation." *Young v. Hickory Bus. Furn.*, 353 N.C. 227, 230, 538 S.E.2d 912, 915 (2000).

¶ 12 To support her claim, Plaintiff tendered her treating physician, Dr. Poehling, as an expert witness. When asked whether Plaintiff's job was likely to cause carpal tunnel and related injuries, Dr. Poehling answered

Certainly it was highly repetitive, and I saw her taking screwdrivers and putting screws in . . . but the whole idea is there was manipulation over and over and over again of various small, little parts . . . that certainly is the kind of thing that we have seen in the past has caused . . . chronic pain syndrome.

Dr. Poehling also stated that no "absolute test" for diagnosing CRPS exists and no objective data was presented to support his diagnosis of CRPS. Dr. Poehling referred

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Plaintiff to undergo a Functional Capacity Evaluation (“FCE”) to determine Plaintiff’s level of function, as he was unable to ascertain the degree of Plaintiff’s loss of strength in her hands. The FCE report which was before the Commission suggested that Plaintiff “was not motivated to cooperate with the evaluation process and exert [her] best effort.” Dr. Poehler conceded the Plaintiff did not exhibit many of the symptoms normally associated with CRPS and that his diagnosis was based largely on Plaintiff’s report of chronic pain.

¶ 13 While Dr. Poehler’s testimony may have been sufficient to support a conclusion that Plaintiff suffered from CRPS caused by her employment, we cannot say that the Commission, as the fact-finder, erred when it determined Plaintiff failed to meet her burden.

¶ 14 Based on the reasoning above, we affirm the Commission’s order denying Plaintiff’s claim for worker’s compensation.

AFFIRMED.

Judges TYSON & JACKSON concur.

Report per Rule 30(e).