ADA LUUKKONEN, Employee/Appellant, v. MAHUBE CMTY. COUNCIL and MINN. WORKERS COMP. ASSIGNED RISK PLAN/BERKLEY ADM'RS, Employer, and N. COUNTRY REG'L HOSP., MERITCARE CLINIC BEMIDJI, and MINN. LABORERS HEALTH & WELFARE FUND, Intervenors.

WORKERS' COMPENSATION COURT OF APPEALS
FEBRUARY 15, 2000

No. [REDACTED SSN]

HEADNOTES

CAUSATION - SUBSTANTIAL EVIDENCE. Where the employee's 1991 work injury was initially diagnosed as an injury to only her right foot, where expert medical opinion offered into evidence by the employee had not expressly linked her specific symptoms in 1999 to her 1991 injury, and where the judge's decision was based on a thorough review of the employee's treatment records, the compensation judge's denial of benefits for permanent total and permanent partial disability benefits on grounds that the employee's 1991 work injury was causally unrelated either to her multiple disabilities in 1999 or to the car accident she sustained in seeking treatment for those disabilities was not clearly erroneous and unsupported by substantial evidence.

Affirmed.

Determined by Pederson, J., Wilson, J., and Johnson, J.
Compensation Judge: Jeanne E. Knight

OPINION

WILLIAM R. PEDERSON, Judge

The employee appeals from the compensation judge's denial of benefits for permanent total and permanent partial disability. We affirm.

BACKGROUND

In 1984, Ada Luukkonen began working as a Head Start home visitor for Mahube Community Council, Inc. The duties of a home visitor include developing individual learning plans for pre-school children and bringing materials to parents to assist them in preparing their children for kindergarten. On approximately November 11, 1991, Ms. Luukkonen [the employee] sustained an injury to her right foot while in the course of her employment, when the armed chair in which she was sitting at a client's home broke. The employee was thirty-seven years old at the time and was earning an average weekly wage of $327.60. Mahube Community Council, Inc. [the

employer], and its insurer admitted liability and commenced payment of related medical expenses.[1]

The employee sought treatment for her injury on November 15, 1991, with Dr. Vern Erickson in Park Rapids. X-rays of the right foot on that date were interpreted as showing no apparent fracture. Dr. Erickson's impression was "sprain of right foot." On that same date, the employer completed a first report of injury in which the employee's injury was described as "severe sprain and pulled tendons" of the "right foot (toes) (arch)." On November 18, 1991, the employee returned to Dr. Erickson reporting a difficult time walking due to pain in her foot. The doctor applied a fiberglass cast and recommended a return in three weeks, continuing to diagnose a sprain of the right foot. On December 20, 1991, additional x-rays of the right foot were viewed as normal, and Dr. Erickson removed the employee's cast. When seen on January 3, 1992, the employee described pain between the first and second toes with touch and pain in the anterior aspect at the ankle. The doctor noted some swelling and limitation of motion secondary to the pain.

On January 7, 1992, the employee was seen at the Fargo Clinic by Dr. Terry Wolff. On examination, Dr. Wolff described gross hypersensitivity of the foot and mottled discoloration. He diagnosed a contusion injury with subsequent reflex sympathetic dystrophy and referred the employee to podiatrist Dr. Richard Arness. Dr. Arness also diagnosed RSD, administered a posterior tibial nerve block, and scheduled the employee for a bone scan. The bone scan, performed on January 10, 1992, was interpreted as showing no evidence of RSD involving the right foot. Additional x-rays, however, revealed a hairline crack to the small toe of the right foot.

On August 18, 1992, the employee reported to Dr. Erickson that she had been involved in a confrontation with a motorcyclist the preceding Saturday and had been struck on the left side of her face. She reported that she had experienced significant headaches since that time. On January 21, 1993, the employee consulted with Dr. Erickson concerning problems with her left knee, which she described as catching when she got up from the floor. She reported no history of definite injury but recent increasing pain. Dr. Erickson diagnosed a left knee sprain and prescribed an Ace wrap and medications. On February 8, 1993, the employee returned to Dr. Erickson for evaluation concerning abdominal pain that she had been experiencing for three days. She described pain upon palpation in the upper right and lower right quadrant, which she said she had never experienced before.

On March 19, 1993, the employee sought treatment for her left knee at Fargo Clinic Merit Care. An orthopedic record of that date indicates that "she didn't injure the knee in any way that she can remember." A separate note indicates that she also reported to Dr. George Storey that "approximately one year ago she fell in which she sustained a right foot nondisplaced fracture of the fifth metatarsal. She states that her left knee has given her no particular problem since that time." She also provided at that time, however, a history of injuring her left knee in a fall on

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[1] The employer admitted liability for a right foot injury and paid slightly more than $600.00 in medical expenses. No temporary total disability benefits were paid, as the employee did not claim any lost time from work as a result of this injury.

November 15, 1991, although "the knee had progressed to a point where it did not cause her much difficulty until December of 1992 when she fell once again and reinjured it." About this same time, the employee had noticed the onset of left hip pain, which Dr. Storey indicated was secondary to her abnormal gait. On March 22, 1993, Dr. Thomas Nagle performed a left knee arthroscopy.

The employee next returned to see Dr. Erickson on July 22, 1994, when she complained of abdominal pain and also of numbness in her neck. She advised the doctor also that

> she gets worse when she has a swelling in her throat, then the abdominal gets worse; also the numbness in her arm gets worse and she has numbness on her right face as well as her right arm. She also has dizziness, shortness of breath, headache and perspires with minimal activity.

The doctor's diagnosis was abdominal pain, fatigue, thyroid dysfunction and hypertension. On July 27, 1994, the employee underwent a CT scan of the abdomen, which showed a slight enlargement of the tail of the pancreas, and Dr. Erickson referred the employee for a gastroenterology consultation with Dr. Stephen Spellman.

The employee saw Dr. Spellman on August 3, 1994, and advised him that she had abdominal discomfort for at least the past sixteen months, starting as a consequence of a hepatitis B vaccination on February 5, 1993. Dr. Spellman concluded that her gastrointestinal complaints fit best a diagnosis of irritable bowel syndrome, and he recommended a repeat CT scan directed at the pancreas. On August 16, 1994, the employee was evaluated also at the Mayo Clinic. The doctors there ruled out cancer of the pancreas and agreed that her symptoms were consistent with irritable bowel syndrome. The following month, the employee also saw endocrinologist Dr. Juan Munoz, to whom she reported a history of neck pain and swelling intermittently for the past six weeks. Dr. Munoz administered thyroid hormone studies, which proved normal.

About a year and a half later, on March 1, 1996, the employee was seen in the emergency room in Bemidji with complaints of vomiting and abdominal pain that radiated around to her back, which she reported had recurred numerous times over the past couple of years. The following month, on April 10, 1996, she saw Dr. William Dicks, a family practitioner at the MeritCare Clinic in Bemidji, with complaints of increasingly frequent and intense headaches. She related the headaches to her injury of November 1991, indicating that they seemed to originate in her upper neck or the occipital area and radiated down her whole right side to cause numbness in her leg. Dr. Dicks concluded that these were muscle tension headaches. In an addendum on the same date, Dr. Dicks stated,

> The original story of the fall off the chair and subsequent problems isn't exactly true. It was a couple of months after that when she had the hepatitis shot that she associates with the problem because after

> the hepatitis shot she developed pain in the right upper quadrant and then when the pain goes away she gets the headache.[2]

Six months later, on October 22, 1996, the employee reported to the emergency room with further complaints of headache and of numerous episodes of nausea and vomiting and photophobia, indicating that she always had weakness on the right side with her migraines.

On November 14, 1996, the employee arranged for treatment at the Smart Chiropractic Clinic on November 18, 1996. While traveling to her appointment, her car slid off the road and into a ditch. The employee kept her appointment with Dr. Smart, but his notes do not reference the automobile incident. The following day, the employee was admitted to the hospital because of severe abdominal pain, nausea, and vomiting. During her hospitalization, the employee underwent an MRI of the pelvis, a dilatation and curettage, and a diagnostic laparoscopy. The hospital records do not reference the auto accident of the previous day. The employee advised the employer of the accident, but she did not mention any injuries. The employee has not returned to work since November 18, 1996.

In December 1996, Dr. Dicks diagnosed fibromyalgia and referred the employee to neurologist Dr. Keith McAvoy and to physical therapy. On February 3, 1997, the employee was also seen by rheumatologist Dr. Joseph Sleckman. Dr. Sleckman concurred in a diagnosis of "fibrositis" and stated, "I believe it is post-traumatic and based on the information available to me related to her work injury." The doctor recommended a functional capacities assessment and a referral to a chronic pain center.

The employee continued to see Dr. Dicks periodically in 1997 and was referred to the Sister Kenny Institute for a chronic pain rehabilitation consultation on August 13, 1997. On that date, Dr. John Bowar recommended an in-patient pain program for the employee. The employee attended a three-week in-patient chronic pain program in March and April of 1998. In a report dated July 3, 1998, Dr. Bowar diagnosed fibromyalgia, "which is a diffuse non-specific muscular ligamental syndrome, which in my opinion is a real entity that can occur with or without trauma." The doctor went on to state that "from a chronologic standpoint" the employee's symptoms did relate to the incidents in 1991 and 1996.

The employee was evaluated by two independent medical examiners. Dr. D. M. Van Nostrand, the employee's expert, concluded that the employee's multiple complaints were related to the work incident from 1991. He diagnosed lumbar, cervical, and thoracic strains, a history of left knee arthroscopy with more than 50% meniscectomy, and chronic headaches. He assigned a permanent disability rating to each of these diagnosed conditions. Dr. Van Nostrand also concluded that the employee's history of probable fibromyalgia was also related to her trauma. Dr. Gary Wyard, who examined the employee on two occasions for the employer, concluded that the incident in November of 1991 was not a substantial cause of the multitude of complaints presented by the employee. Dr. Wyard did not believe that the employee had sustained any

[2] The hepatitis shot was actually given on February 5, 1993, more than fourteen months after the injury at work.

permanent partial disability related to her 1991 injury, nor did he agree with the diagnosis of fibromyalgia. The employee was also evaluated by two vocational experts, both of whom concluded, in essence, that the employee was temporarily totally disabled from employment.

On April 7, 1999, the matter came on for hearing before Compensation Judge Jeanne Knight for resolution of the employee's claim for permanent total disability and permanent partial disability benefits. At the hearing, the employee contended that, in addition to the admitted injury to her right foot, she sustained injuries to her neck, mid back, low back, hips, knees, right ankle, right arm, right shoulder, and hands, as well as tinnitus and fibromyalgia. She further contended that her medical conditions were materially aggravated by her motor vehicle incident of November 18, 1996, which she contended was consequent to her 1991 work injury because it occurred while she was traveling for treatment of that injury. The employer contended that the only injury sustained on November 11, 1991 was to the employee's right foot. In a decision issued on June 9, 1999, the compensation judge denied the employee's claim in its entirety. The employee appeals.

STANDARD OF REVIEW

In reviewing cases on appeal, the Workers' Compensation Court of Appeals must determine whether "the findings of fact and order [are] clearly erroneous and unsupported by substantial evidence in view of the entire record as submitted." Minn. Stat. § 176.421, subd. 1 (1992). Substantial evidence supports the findings if, in the context of the entire record, "they are supported by evidence that a reasonable mind might accept as adequate." Hengemuhle v. Long Prairie Jaycees, 358 N.W.2d 54, 59, 37 W.C.D. 235, 239 (Minn. 1984). Where evidence conflicts or more than one inference may reasonably be drawn from the evidence, the findings are to be affirmed. Id. at 60, 37 W.C.D. at 240. Similarly, "[f]actfindings are clearly erroneous only if the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been committed." Northern States Power Co. v. Lyon Food Prods., Inc., 304 Minn. 196, 201, 229 N.W.2d 521, 524 (1975). Findings of fact should not be disturbed, even though the reviewing court might disagree with them, "unless they are clearly erroneous in the sense that they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." Id.

DECISION

The compensation judge concluded that the employee has been temporarily totally disabled since November 19, 1996, and that she has a 3% whole-body impairment related to her left knee condition. The compensation judge also concluded, however, that the employee's November 11, 1991, work injury was not a substantial contributing cause of either that permanent partial disability or that total disability. The judge concluded further that the employee failed to prove either that she was seeking medical treatment for her work injury at the time of her November 18, 1996, car accident or that she was even injured as a result of that accident. The employee argues on appeal that the judge failed to mention and so apparently to consider certain material evidence, including the report from independent medical examiner Dr. Van Nostrand.

She argues that Dr. Van Nostrand's opinion, together with the opinion of Dr. Bowar and other evidence of record, should have been relied upon by the judge to reach a contrary conclusion. She contends that but for the 1991 incident she would not have sustained the multitude of medical problems that followed, nor would she have been involved in the accident of November 18, 1996, which she continues to maintain resulted in compensable aggravations. See Aaserud v. National Food Stores, Inc., 32 W.C.D. 525 (W.C.C.A. 1980). We are not persuaded.

In reaching her conclusion, the compensation judge partially relied on the absence of corroboration in the medical records contemporaneous with the injury. She noted that Dr. Erickson's records immediately following the injury report complaints only in the employee's right foot. The employee filled out the employer's accident report indicating that she had sustained a fall that had resulted in a severe sprain and pulled tendons of only the right foot. When the employee was treated in Fargo by Dr. Wolff and Dr. Arness, the focus of her treatment was again only on her right foot. After ruling out RSD, the doctors concluded the employee had a hairline fracture of the little toe in that same right foot.

The compensation judge indicated that she also considered carefully the employee's own testimony "as to exactly how she fell when the chair collapsed and broke. She testified she jarred her whole body and hurt all over, and that all her complaints began then and have continued unabated until the present." The judge concluded, however, that this testimony was contrary to the medical evidence, which she found to show "that the majority of the complaints came later, were originally attributed to some other cause, and are not causally connected to the work injury." The judge noted that the first report of the employee's headache symptoms began shortly after an incident in August of 1992, when the employee was struck in the face. The employee's left knee symptoms were reported on January 21, 1993, without a history of injury. The employee's complaints of abdominal pain on February 8, 1993, appear to be consequent to a hepatitis B shot. As even Dr. Dicks indicated in an office note of July 11, 1996, with regard to the employee's many lower back and abdominal complaints, "It is difficult to ascertain how all these problems may be related or how they all started."

It is true that Dr. Dicks concluded in December 1996 that the employee suffered from fibromyalgia related her 1991 work injury and that Drs. Bowar, Sleckman and Van Nostrand also appeared to relate the employee's complaints to that injury. However, particularly given the substantial ambiguities that exist in the medical record and the contrary inference that may be drawn especially from the early parts of that record, it was not unreasonable for the judge to interpret the medical evidence as she did. Moreover, as noted above, the compensation judge determined that the employee's own history of her problems was not reliable. This conclusion, too, was the judge's prerogative. See Brennan v. Joseph G. Brennan, M.D., 425 N.W.2d 837, 839-40, 41 W.C.D. 79, 82 (Minn. 1988) (assessment of a witness's credibility is the unique function of the trier of fact). The record supports the compensation judge's conclusion that the only injury sustained by the employee on November 11, 1991, was to the right foot, and we cannot conclude that the compensation judge erred in her interpretation of the medical records. Questions of medical causation fall within the province of the compensation judge. Felton v. Anton Chevrolet, 513 N.W.2d 457, 50 W.C.D. 181 (Minn. 1994). The judge's conclusion that the records do not

establish the requisite causal connection is supported by substantial evidence, and we must affirm. See Hengemuhle, 358 N.W.2d at 59, 37 W.C.D. at 239.

While the compensation judge does not specifically mention Dr. Van Nostrand's opinion, such reference was unnecessary given that the judge's conclusion was evidently based in a thorough review of the records of the employee's own treating providers. See Rothwell v. Minnesota Dep't of Natural Resources, slip op. (W.C.C.A. Dec. 6, 1993) (a compensation judge is not required to discuss every piece of medical evidence introduced at trial); see also Pelto v. USX Corp., slip op. (W.C.C.A. Dec. 16, 1993). Moreover, as the compensation judge pointed out, neither Dr. Nostrand's testimony nor any other expert testimony offered into evidence actually causally connects each of the employee's claimed symptoms to the admitted injury. In his report, Dr. Van Nostrand simply states that "these disabilities are felt to be related to her work incident dated from 1991." We see no reason to conclude that the compensation judge failed to properly consider the entire record. We have carefully reviewed the record in this case, and we find that the compensation judge has accurately reflected the employee's testimony and the medical evidence. Factual determinations of this nature are for the compensation judge, and we see no reason to overturn the judge's determination in this case. Concluding that it was not unreasonable, we affirm the judge's denial of benefits based on lack of medical causation. See Hengemuhle, 358 N.W.2d at 59, 37 W.C.D. at 239.