

ROGER K. BRITTON, Employee/Appellant, v. LOVELETTE TRANSFER, INC. and MINN. ASSIGNED RISK PLAN/BERKLEY RISK ADM'RS, Employer-Insurer.

WORKERS' COMPENSATION COURT OF APPEALS  
MARCH 29, 2001

No. [REDACTED SSN]

HEADNOTES

CAUSATION–SUBSTANTIAL EVIDENCE. Substantial evidence supports the compensation judge's finding that the employee's use of the medication Zomig for headaches was not causally related to his work-related low back injury.

Affirmed.

Determined by: Rykken, J., Johnson, J., and Wheeler, C.J.  
Compensation Judge: Jennifer Patterson

OPINION

MIRIAM P. RYKKEN, Judge

The employee appeals the compensation judge's finding that the employee's need for treatment of headaches was not causally related to his work-related low back injury. We affirm.

BACKGROUND

On December 26, 1987, Roger K. Britton, the employee, sustained a work-related injury to his low back while working as a furniture mover for Lovelette Transfer, the employer. Born in 1949, the employee was 38 years old when injured. As a result of this injury, he remained off work from December 27, 1987, through February 22, 1988, when he returned to light duty. The employee was apparently improving until he was treated with pelvic traction in physical therapy on January 15, 1988, when he developed pain in his left leg. A March 22, 1988, MRI indicated a tear in the annulus of the L4-5 disc with central protrusion of disc material. The employee returned to his regular job as a furniture mover on March 25, 1988, but on April 19, 1988, Dr. John Dowdle took the employee off work. On June 10, 1988, Dr. Dowdle prescribed a TENS unit, and on July 8, recommended a TLSO [thoracolumbosacral orthosis], neither of which provided relief for the employee. On July 22, 1988, Dr. Dowdle recommended a sacroiliac joint injection of Xylocaine and Depo-Medrol, and prescribed medication for back pain and for headaches. On September 2, 1988, Dr. Dowdle referred the employee to Dr. Thomas McPartlin, neurologist, for evaluation of his headaches "to see if these are related to his underlying disc condition in his lumbar spine with mechanical symptoms, with resultant headaches, or whether these headaches have some intrinsic cause other than relative to his back."

The employee treated with Dr. McPartlin for headaches, low back pain, and bilateral leg pain from October 31, 1988, through October 31, 1990, and from June 5, 1995 and continuing. In November 1989, Dr. McPartlin stated that “Ercalf, Midrin, and Anaprox are medications that have been prescribed to treat [the] employee’s headaches. The patient has a mixture of muscle contraction and vascular headaches that were triggered by traction used to treat the back injury. Therefore, these headaches are related to the injury of 12/26/87.” The employee treated with other doctors for his headaches as well. On June 20, 1991, the employee treated with Dr. Lowell Baker for muscle contraction headaches caused by his low back symptoms. Dr. Baker referred the employee to Dr. Richard Seibert for a second opinion regarding possible surgery. Dr. Seibert did not think surgery would be beneficial. The employee did not receive treatment for back symptoms or headaches from any doctor from March 1992 through June 5, 1995. The employee testified that his back pain and headaches were much improved during this time.

On June 5, 1995, the employee returned to Dr. McPartlin reporting increased pain and headaches, and continued to treat with Dr. McPartlin for headaches. In April 1999, the employee reported low back pain, neck pain, and headaches one to two times per week, for which he was prescribed Zomig. According to the employee, this medication helped his headaches about half the time.

On June 15, 1999, the employer and insurer filed a Notice of Intention to Discontinue temporary partial disability benefits. The parties ultimately reached settlement of the employee’s claims, and in September 1999, the parties entered into a stipulation for settlement settling all claims for the December 26, 1987, work injury except future medical expenses. The employer admitted liability for the low back injury only, and reserved defenses for future medical expenses related to any other body part. An award on stipulation was served and filed on September 9, 1999. No petition to vacate this stipulation has been filed. The employer and insurer have not admitted liability for a neck injury or for headaches, whether as direct injuries relating to the December 26, 1987, work injury or as consequential injuries.

On November 4, 1999, the employee filed a medical request, requesting payment for the prescribed Zomig and payment for related medical mileage for travel required to obtain his medication. In his medical request, the employee asserted that the employer and insurer had paid for all medical expenses incurred since his December 26, 1987, injury, including treatment for his headaches, with the exception of his prescription for Zomig. In their medical response, the employer and insurer denied that the employee’s headaches were causally related to his low back injury in 1987. At the request of the employer and insurer, the employee underwent a medical evaluation with a neurologist, Dr. Joel Gedan, on December 8, 1999. Dr. Gedan determined that the employee’s headaches and need for treatment related to those headaches were not causally related to the employee’s December 1987 low back injury nor to any medical treatment that the employee received for that injury.

Following an administrative conference, by Decision and Order Pursuant to Minn. Stat. § 176.106, a representative of the Commissioner of the Department of Labor and Industry determined that the admitted low back injury on December 26, 1987, was not a substantial

contributing factor to the need for the prescription medication, Zomig, a medication used to treat vascular headaches, and denied the employee's claim for payment and related medical mileage. The employee appealed, requesting a formal hearing. A hearing was held before a compensation judge on August 4, 2000, on the issue of whether there was a causal relationship between the employee's December 26, 1987, low back work injury and his use of Zomig. The compensation judge found that increased low back pain during exacerbations of the employee's permanent low back injury was not a significant contributing factor to the occurrence of the employee's vascular headaches. The employee appeals.

## STANDARD OF REVIEW

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 (2000). 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, 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." Northern States Power Co. v. Lyon Food Prods., Inc., 304 Minn. 196, 201, 229 N.W.2d 521, 524 (1975).

## DECISION

The employee argues that the compensation judge erred by not relying upon Dr. McPartlin's opinion that the employee's headaches and need for treatment were causally related to the employee's work-related low back injury. The employee testified that his headaches were causally related to his back pain since when he experiences back pain, he feels pain throughout his spine including his neck, which leads to headaches which begin in his posterior skull and move to the front of his skull. He also testified that the Zomig medication helps relieve his headaches.

Dr. McPartlin concluded that the employee's headaches were causally related to the employee's work injury. Dr. McPartlin explained that the employee experienced mixed headaches with muscle contraction components and vascular components which tended to be provoked by neck activity. He also explained that the muscular component was capable of being provoked by an injury, but that the vascular component was not. He also concluded that the employee had an underlying tendency to experience migraine and that the migraine headaches are being brought out by the pain stimulation of the muscle contraction headache. In addition, Dr. McPartlin stated that without the neck pain, the vascular component of the headache would be a considerably lower-level problem, but that the employee would not have these vascular headaches without his underlying predisposition to migraine. He stated that "Zomig is used solely for the vascular headache component of this." Dr. McPartlin concluded that: "There is no question

therefore of a causal relationship between the injury and the current headache status, however the injury has provoked the muscle contraction component felt posteriorly in the neck that then initiates the vascular headache for which [the employee has] innate proclivity.”

Based upon his examination of the employee and his review of the employee’s medical records, including his review of Dr. McPartlin’s opinion on causation of the employee’s headaches, Dr. Gedan determined that “there is no logical or reasonable connection between the lumbar strain in 1987 and any degenerative changes in the lumbar spine and the frontal headaches. In my opinion, the headaches are not work-related.” The compensation judge accepted Dr. Gedan’s opinion. In addition, the compensation judge reviewed the employee’s medical records and concluded that there was not a consistent relationship between the employee’s vascular headaches and increased low back pain, since there were occasions of increased low back pain with no headache symptoms and occasions of headache symptoms when his back and/or neck symptoms remained the same.

The employee argues that the compensation judge erred by not accepting Dr. McPartlin’s opinion. The compensation judge noted that Dr. McPartlin’s March 10, 2000 report indicates that the employee’s headaches began after traction to his neck, although the employee actually underwent pelvic traction to treat his low back. While a later report indicates that Dr. McPartlin agreed that the employee’s injury and traction were to his low back, but that the employee’s pain radiated to his neck, the compensation judge is not required to accept Dr. McPartlin’s opinion, even in view of Dr. McPartlin’s revised medical report concerning the nature of the traction provided in 1988. The ultimate determination of medical causation is within the province of the compensation judge. Felton v. Anton Chevrolet, 513 N.W.2d 456, 50 W.C.D. 181 (Minn. 1994). It is the compensation judge’s responsibility, as trier of fact, to resolve conflicts in expert testimony. Nord v. City of Cook, 360 N.W.2d 337, 342, 37 W.C.D. 364, 372 (Minn. 1985). Substantial evidence supports the compensation judge’s finding that there is no causal relationship between the employee’s low back injury on December 26, 1987, and his headaches, and we therefore affirm.