IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

FILED

December 8, 1998

Cecil W. Crowson
Appellate Court Clerk

MILLER HIGH	}	*SUMNER CHANCERY*
	}	*No. Below 96C-348*
Plaintiff/Appellant		}
	}	*Hon. Thomas E. Gray*
vs.	}	*Chancellor*
	}	
	}	*No. 01S01-9804-CH-00068*
GF OFFICE FURNITURE, LTD.	}	
	}	
Defendant/Appellee	}	*AFFIRMED*

JUDGMENT ORDER

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.

Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs will be paid by plaintiff/appellant, for which execution may issue if necessary.

IT IS SO ORDERED on December 8, 1998.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE

SPECIAL WORKERS' COMPENSATION APPEALS PANEL

AT NASHVILLE
(September 16, 1998 Session)

FILED

December 8, 1998

Cecil W. Crowson
Appellate Court Clerk

MILLER HIGH	)	SUMNER CHANCERY
	)	
Plaintiff-Appellant,	)	Hon. Thomas E. Gray,
	)	Chancellor.
v.	)	
	)	No. 01S01-9804-CH-00068
GF OFFICE FURNITURE, LTD.,	)	
	)	
Defendant-Appellee.	)	

For Appellant:

Joseph Y. Longmire, Jr.
Hendersonville, Tennessee

For Appellee:

Arthur E. McClellan
Gallatin, Tennessee

M E M O R A N D U M   O P I N I O N

Members of Panel:

Frank F. Drowota, III, Associate Justice, Supreme Court
William H. Inman, Senior Judge
Joe C. Loser, Jr., Special Judge

AFFIRMED   Loser, Judge

MEMORANDUM OPINION

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. section 50-6-225(e)(3) for hearing and reporting of findings of fact and conclusions of law. In this appeal, the employee, High, insists the evidence preponderates against the trial court's finding that the injury to him, was not causally related to his employment. As discussed below, the panel has concluded the judgment should be affirmed.

Our review is de novo upon the record of the trial court, accompanied by a presumption of correctness of the findings of fact, unless the preponderance is otherwise. Tenn. Code Ann. section 50-6-225(e)(2). Where the trial judge has seen and heard the witnesses, especially if issues of credibility and weight to be given oral testimony are involved, considerable deference must be accorded those circumstances on review. Humphrey v. David Witherspoon, Inc., 734 S.W.2d 315 (Tenn. 1987).

The claimant has worked for this employer since 1985 on the assembly line. In June of 1996, while building steel panels on the panel line, he complained to his supervisor of left wrist soreness which he attributed to a malfunctioning air gun he was using to place screws in metal panels. In August of the same year, the claimant showed his supervisor a lump on his left wrist and was referred to Dr. Felix Tormes, who surgically excised a ganglion cyst on November 10, 1996.

Following surgery, the claimant returned to light work but, because of continuing pain and swelling, was unable to keep up with his assigned duties. Nevertheless, Dr. Tormes released him to full duty. Dr. Tormes testified the claimant gave no history of trauma and that he found nothing that causally related the ganglion cyst to the claimant's work. The doctor assessed no permanent impairment.

Through Vocational Rehabilitation Services, the claimant saw Dr. John

Lamb, who diagnosed tendinitis. Dr. Lamb testified that he could not say with any degree of certainty that the injury was causally related to the claimant's work for the employer, but speculated there could be such a causal relationship.

In order to establish that an injury was one arising out of the employment, the cause of the death or injury must be proved. Hill v. Royal Ins. Co., 937 S.W.2d 873 (Tenn. 1996). In all but the most obvious cases, causation may only be established through expert medical testimony. Aetna Casualty and Surety Co. v. Long, 569 S.W.2d 444 (Tenn. 1978). Causation is not obvious in this case and the only medical proof of causation is too speculative in the face of persuasive countervailing medical proof and a paucity of credible lay proof. Thus, the evidence fails to preponderate against the finding of the chancellor.

For the above reasons, the judgment of the trial court is affirmed. Costs on appeal are taxed to the plaintiff-appellant.

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Joe C. Loser, Jr., Special Judge

CONCUR:

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Frank F. Drowota, III, Associate Justice

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William H. Inman, Senior Judge