

IN THE SUPREME COURT OF TENNESSEE

SPECIAL WORKERS' COMPENSATION APPEALS PANEL

AT KNOXVILLE

FILED  
April 9, 1999  
Cecil Crowson, Jr.  
Appellate Court  
Clerk

BECHTEL CONSTRUCTION	)	HAMILTON
CIRCUIT	)	
COMPANY, ET AL,	)	
	)	
Plaintiff/Appellee	)	NO. 03S01-9712-CV-00145
	)	
v.	)	
	)	
VIVIAN CAMPBELL,	)	HON. L. MARIE WILLIAMS,
	)	JUDGE
Defendant/Appellant	)	

**For the Appellant:**  
Robert A. Fox  
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**For the Appellee:**  
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**MEMORANDUM OPINION**

Justice Adolpho A. Birch, Jr.  
Senior Judge William H. Inman  
Special Judge Joe C. Loser, Jr.

AFFIRMED

INMAN, Senior Judge

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law.

The issue in this case is whether the evidence preponderates against the finding of the trial court that the employee did not suffer a compensable injury or an aggravation thereof within the purview of the workers' compensation laws.

Review of the findings of fact made by the trial court is *de novo* upon the record of the trial court, accompanied by a presumption of the correctness of the finding, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2); *Stone v. City of McMinnville*, 896 S.W.2d 548, 550 (Tenn. 1995).

The employee initially alleged that she suffered a job-related accident while employed as an apprentice pipe fitter at the TVA Sequoyah Nuclear Plant in Hamilton County on May 14, 1996. This theory was essentially abandoned after the proof was closed, and the employee was permitted to amend her counter-complaint by alleging a gradual injury involving cervical and shoulder pain.

Ms. Campbell was initially employed in August, 1995. She was laid off in May, 1996, but was on furlough for two months during her brief employment. She testified that on May 14, 1996, while relaxing during a lunch break, pain developed in her left forearm. Three days later she was laid off due to a reduction in force, and applied for and received unemployment benefits, after certifying to her union that she was able to work. On June 6, 1996, she was injured in an automobile accident, and reported to the treating chiropractor that she had neck and shoulder complaints, not job-related. She did not pursue further chiropractic treatment because "it would mess up her compensation claim."

She was in course provided a list of physicians from which to select a treating physician. She chose Dr. George Seiters, who provided treatment from June 25, 1996 to October 1996. In the interim, she saw Dr. Richard Donaldson, for whom she had worked in 1985 and 1986.

She became dissatisfied with the treatment of Dr. Seiters and her employer furnished another list of physicians. She chose Dr. Scott Hodges, whom she saw only one time because she learned that he did not believe her condition was work-related.

Dr. Hodges, an orthopedic surgeon, testified that Ms. Campbell complained of neck and shoulder pain, gradually occurring, and that in his opinion she had no permanent impairment.

Dr. Richard Donaldson testified that he saw Ms. Campbell on June 20, 1996, with complaints of neck and shoulder pain gradually occurring. He opined that her job activities aggravated an underlying condition, and that she had a ten percent impairment to her right shoulder, a five percent impairment to her left shoulder, with a whole person impairment of 19 percent.

Dr. Seiters opined that Ms. Campbell had a permanent impairment of six percent to her whole body.

The trial court found that the opinion of Dr. Donaldson was not reliable because of his personal involvement superimposed upon the inconsistent statements of Ms. Campbell to him and other health providers. The testimony of Dr. Hodges was fully accredited by the trial judge, who has discretion to accept the opinion of one medical expert over that of another, *Johnson v. Midwesco, Inc.*, 801 S.W.2d 804 (Tenn. 1990); *Thomas v. Aetna Ins. Co.*, 812 S.W.2d 278 (Tenn. 1991).

We cannot find that the evidence preponderates against the findings and judgment of the trial court, and the judgment is accordingly affirmed at the costs of the appellant.

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William H. Inman, Senior Judge

CONCUR:

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Adolpho A. Birch, Jr., Justice

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Joe C. Loser, Jr., Special Judge

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BECHTEL CONSTRUCTION	)	Hamilton
Circuit	)	
COMPANY, ET AL.,	)	No. 96LA0311
	)	
Plaintiff-Appellee,	)	
	)	Hon. L. Marie Williams, Judge
vs.	)	
	)	
VIVIAN CAMPBELL,	)	NO. 03S01-9712-CV-00145
	)	
Defendant-Appellant.	)	Affirmed

**JUDGMENT ORDER**

This case is before the Court upon motion for review pursuant to Tenn. Code Ann. § 50-6-225(e)(5)(B), 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 motion for review is not well-taken and should be denied; 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 the defendant-appellant and her surety, for which execution may issue if necessary.

It is so ordered.

PER CURIAM

Birch, J., not participating

