

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION PANEL
AT NASHVILLE

FILED

June 7, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

WILLIAM RICHARDSON,)	LAWRENCE CIRCUIT
Plaintiff/Appellee)	
v.)	Hon. James L. Weatherford,
)	Judge
MURRAY OHIO MANUFACTURING)	NO. 01S01-9508-CV-00130
COMPANY,)	(No. C-13840 Below)
Defendant/Appellant)	

For the Appellant:

Ben Boston
Christopher V. Sockwell
Boston, Bates & Holt
235 Waterloo St.
P.O. Box 357
Lawrenceburg, TN 38464

For the Appellee:

J. Daniel Freemon
Freemon & Hillhouse
327 W. Gaines St.
P.O. Box 787
Lawrenceburg, TN 38464

MEMORANDUM OPINION

Members of Panel:

Justice Frank F. Drowota, III
Senior Judge John K. Byers
Special Judge Robert L. Childers

**AFFIRMED
AND
REMANDED**

BYERS, 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 trial court awarded the plaintiff 15% permanent partial disability to the body as a whole. The defendant below appeals, challenging the trial court's finding that plaintiff retains a permanent impairment as a result of his work-related injury.

We affirm the judgment of the trial court.

Plaintiff, 38 at the time of trial is a high school graduate. While moving a roll of sheet metal on June 2, 1992, plaintiff felt a sharp pain in his groin. He was referred to Dr. Robert Coble, who diagnosed a right inguinal hernia and performed a surgical repair. After surgery, plaintiff returned to his former employer, performing light duty work for a while and then returning to his former duties. Plaintiff testified that he re-injured this area in October, falling into a split. Plaintiff is now self-employed, painting and cleaning carpets. He testified that he continues to experience pain, soreness and pulling in his groin.

Dr. Coble assigned plaintiff an impairment rating of 10% to 15%. He admitted on cross-examination that the A.M.A. Guides allow only a zero to five percent impairment rating for a hernia. He relied in part on the first edition of the A.M.A. Guides but testified that he considered vocational factors such as the employment activity described to him by plaintiff and the problems plaintiff described having while performing those activities. He did not place any permanent restrictions on the plaintiff.

Our review is *de novo* on the record accompanied by the presumption that the findings of fact of the trial court are correct unless the evidence preponderates otherwise. TENN. CODE ANN. § 50-6-225(e)(2). The plaintiff must prove every element of his case by a preponderance of the evidence. *White v. Werthan Industries*, 824 S.W.2d 158, 159 (Tenn. 1992). Causation and permanency of a work-related injury must be shown in most cases by expert medical evidence. *Tindall v. Waring Park Ass'n*, 725 S.W.2d 935, 937 (Tenn. 1987).

The defendant contends that the medical evidence preponderates against the trial court's finding that the plaintiff has a permanent injury. It argues that Dr. Coble imposed no permanent restrictions and did not properly assign an impairment rating because he used an outdated edition of the A.M.A. Guides and considered vocational factors as well as medical ones.

We do not agree with the defendant that these facts bar a finding of permanent partial disability to the body as a whole by the trial court. The totality of Dr. Coble's testimony indicates that, in his opinion, plaintiff suffered a permanent injury. The use of an outdated edition of the A.M.A. Guides does not eliminate the probative value of the expert medical testimony. *Tonya Jo Ladd v. Travelers Insurance Company*, No. 03S01-9402-CV-0008 (filed August 30, 1994 at Knoxville). Also, the lay testimony of the plaintiff is valid evidence on the issue of permanence, to be considered in conjunction with the expert testimony. See *Thomas v. Aetna Life & Cas. Co.*, 812 S.W.2d 278, 283 (Tenn. 1991).

We find that the evidence in the record does not preponderate against the trial judge's finding that the plaintiff suffered a 15% permanent partial disability to the body as a whole. Therefore, we affirm the judgment at the cost of the appellant. We remand the case to the trial court for entry of any order necessary to carry out this judgment.

John K. Byers, Senior Judge

CONCUR:

Frank F. Drowota, III, Justice

Robert L. Childers, Special Judge