

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

**FILED**

March 24, 1997

Cecil W. Crowson  
Appellate Court  
Clerk

EQUITY GROUP, TENNESSEE )  
DIVISION, )

Plaintiff/Appellant )

v. )

SHERRI LESLIE, )

Defendant/Appellee )

DAVIDSON CHANCERY

NO. 01S01-9606--CH-00125

HON. IRVIN H. KILCREASE, JR.,  
CHANCELLOR

**For the Appellant:**

Kent E. Krause  
Mary Sullivan Moore  
Suite 2600, The Tower  
611 Commerce Street  
Nashville, TN 37203

**For the Appellee:**

J. Timothy Street  
E. Covington Johnston, Jr.  
136 Fourth Avenue, South  
Franklin, TN 37064

**MEMORANDUM OPINION**

**Members of Panel:**

Frank F. Drowota, III, Justice  
John K. Byers, Senior Judge  
William H. Inman, Senior Judge

**AFFIRMED and  
REMANDED**

**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 is whether the trial court erred in awarding the plaintiff benefits for a disability to her right leg.

The plaintiff alleged and the court found that she injured her left knee on July 22, 1993 resulting in disability for which benefits were awarded, not here questioned. Nine months later, in April, 1994, she alleged that during the course of her employment her left knee collapsed, causing her to fall on her right knee resulting in a disabling injury.

In the course of time she sought benefits for disability to both knees.

The trial court found that both injuries were compensable, and awarded benefits based on 55 percent disability to the left knee and 40 percent to the right knee.

The employer argues that the evidence falls short of proving that the plaintiff suffered an injury by accident to her right knee, and that the court's reliance on the testimony of Dr. Roy C. Terry was misplaced because he was not credibly informed.

Dr. Terry testified that the right knee injury "could be" related to the July, 1993 injury. From this testimony the defendant extrapolates the argument that Dr. Terry assumed both knee problems arose in 1993, contrary to the testimony of the plaintiff that she injured her right knee in 1994. The argument continues that "could be" testimony alone is not sufficient; that there must be, at least, corroborating lay testimony. This is a correct legal assertion. See *Livingston v. Shelby Williams*, 811 S.W.2d 511 (Tenn. 1991). But there is corroborative lay testimony in this record.

As stated above, the plaintiff testified that her left knee collapsed, causing her to fall on her right knee. It is true that she gave confusing, perhaps conflicting accounts of the episode, but the Chancellor, and not us, is the arbiter of her credibility, and of the weight to be accorded her testimony. See *Walls v. Magnolia Truck Lines*, 622 S.W.2d 526, 528 (Tenn. 1981).

The plaintiff's right knee was admittedly injured in some fashion. She has a disabling condition, asserted by the employer to have been of idiopathic origin and thus not compensable because of the inadequacy of the "could be" medical testimony. We do not agree, for the reason stated.

We do not substitute our judgment for that of the Chancellor, but are limited to a review *de novo* on the record to determine if the judgment is supported by a preponderance of the evidence. A determination of that having been made, we presume the correctness of the judgment. TENN. R. APP. P., RULE 13(d). We clearly cannot find that the evidence preponderates against the judgment which is affirmed.

The judgment is affirmed and the case is remanded to the trial court for assessment of costs, which are taxed to the appellant.

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William H. Inman, Senior Judge

CONCUR:

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Frank F. Drowota, III, Justice

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John K. Byers, Senior Judge

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EQUITY GROUP, TENNESSEE	}	DAVIDSON CHANGERY
DIVISION,	}	Cecil W. Crowson
	}	Appellate Court Clerk
Plaintiff/Appellant	}	No. 94-2763-1 Below
	}	
vs.	}	Hon. Irvin H. Kilcrease, Jr.,
	}	Chancellor
	}	
SHERRI LESLIE,	}	No. 01S01-9606-CH-00125
	}	
Defendant/Appellee	}	AFFIRMED AND REMANDED.

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 and Surety for which execution may issue if necessary.*

*IT IS SO ORDERED on March 24, 1997.*

PER CURIAM