IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

PATRICIA HENLEY	}	*FRANKLIN CHANCERY*
	}	*No. Below 14,938*
Plaintiff/Appellee	}	
	}	*Hon. Jeffrey F. Stewart*
vs.	}	*Chancellor*
	}	
	}	*No. 01S01-9802-CH-00036*
CKR INDUSTRIES, INC.	}	
	}	
Defendant/Appellant	}	
	}	*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 defendant/appellant, for which execution may issue if necessary.

IT IS SO ORDERED on December 3, 1998.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE

SPECIAL WORKERS' COMPENSATION APPEALS PANEL

AT NASHVILLE

PATRICIA HENLEY,	)	FRANKLIN CHANCERY
	)	
Plaintiff/Appellee	)	NO. 01S01-9802-CH-00036
	)	
v.	)	
	)	
CKR INDUSTRIES, INC.,	)	HON. JEFFREY F. STEWART,
	)	CHANCELLOR
Defendant/Appellant	)	

For the Appellant:

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For the Appellee:

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

Members of Panel:

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

AFFIRMED INMAN, Senior Judge

O P I N I O N

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 plaintiff was awarded benefits for a ten percent permanent disability to her right arm and the employer appeals, insisting that proof is lacking of the required causal relationship.

The plaintiff alleged that she suffered a job-related injury on November 6, 1995. She was 42 years old, and began employment in February 1995, which continued until March, 1996. Her duties involved 'batch-bonding,' a repetitive task, and other activities.

On March 5, 1996, she was laid off as a result of a reduction in the work force. She had reported her alleged injury of November 6, 1995, and the defendant immediately provided her with a list of physicians. She selected Dr. Ephraim Gammada, and saw him on the same day.

Dr. Gammada treated the plaintiff through September 9, 1996, and diagnosed her condition as acute tendinitis. On April 26, 1996, he thought the tendinitis had resolved.

Following the termination of her employment with the defendant, she held a succession of jobs which involved repetitive actions. She continued to have difficulties with her arm and returned to Dr. Gammada from time to time.

The problems with her arm did not resolve. She no longer saw Dr. Gammada because his charges were not paid, and her attorney referred her to Dr. Richard Fishbein, an orthopedic specialist. Her complaints remained constant.

Dr. Gammada made no evaluation of the plaintiff, and declined to say whether she had an impairment or not.

Dr. Fishbein took a history from the plaintiff and also reviewed Dr. Gammada's notes, following which he examined the plaintiff. He diagnosed early carpal tunnel syndrome, tendinitis and a ganglion cyst, which he attributed to repetitive work activity during employment. He assessed a five percent impairment to her right arm.

The appellant argues that Dr. Fishbein's impairment rating is based on his diagnosis of carpal tunnel syndrome, a condition never before mentioned, which was made 18 months after her termination by the defendant. In this connection, Dr. Fishbein testified that the work at subsequent employment might well have aggravated the plaintiff's condition, ". . . but she surely had symptoms of it while at CKR."

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 appellant argues that proof of causation is lacking, but this requirement is satisfied if the injury had a rational causal connection to the employee's work. *Braden v. Sears Roebuck & Co.,* 883 S.W.2d 496 (Tenn. 1992). Generally, an injury arises out of and in the course of employment if it has a rational, causal connection to the work and occurs while the employee is engaged in the duties of his employment; and any reasonable doubt as to whether an injury arose out of the employment or not is to be resolved in favor of the employee. *White v. Werthan Industries,* 824 S.W.2d 158, 159 (Tenn. 1992).

The statute is to be construed "in a manner designed to protect workers and their families from the economic devastation that, in many instances, can follow on-the-job injuries, (and) must be construed so as to ensure that injured employees are justly and appropriately reimbursed for debilitating injuries suffered in the course of service to the employer." *Betts v. Tom Wade Gin,* 810 S.W.2d 140 (Tenn. 1991).

In *Imperial Shirt Company v. Jenkins,* 399 S.W.2d 757 (Tenn. 1966), the Supreme Court pointed out that

> [T]he Workmen's Compensation Act contemplates liberality, not only in the admission of evidence but also in the inferences to be drawn therefrom, and in borderline cases the court will endeavor to carry out the benevolent object of the Workmen's Compensation Act and resolve doubts in favor of the claimant.

Imperial Shirt, supra.

In this case, as in all workers' compensation cases, the claimant's own assessment of his physical condition and resulting disabilities is competent testimony and cannot be disregarded. *Tom Still Transfer Co. v. Way,* 482 S.W.2d 775, 777 (Tenn. 1972). And in doing so, the credibility of the plaintiff who testified to this is left to the trial judge. *See Humphrey v. David Witherspoon, Inc.*, 734 S.W.2d 315 (Tenn. 1987).

We cannot find that the evidence preponderates against the judgment, which is affirmed at the costs of the appellant. The case is remanded for all appropriate purposes.

_____
William H. Inman, Senior Judge

CONCUR:

_____
Frank F. Drowota, III, Justice

_____
Joe C. Loser, Jr., Special Judge