

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

TAULONA WILLIAMS *Applicant*

vs.

**KAISER PERMANENTE, Permissibly Self-Insured, Administered by SEDGWICK
CLAIMS MANAGEMENT SERVICES, *Defendants***

**Adjudication Number: ADJ13042596
Oakland District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration, the contents of the Report and the Opinion on Decision of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's Report and Opinion, which are both adopted and incorporated herein, we will deny reconsideration.

For the reasons stated in the WCJ's Report and Opinion, we agree that the opinion of panel qualified medical examiner (QME) Michael Fujinaka, M.D., is substantial medical evidence upon which the WCJ properly relied. To be considered substantial evidence, a medical opinion "must be predicated on reasonable medical probability." (*E.L. Yeager Construction v. Workers' Comp. Appeals Bd. (Gatten)* (2006) 145 Cal.App.4th 922, 928 [71 Cal.Comp.Cases 1687]; *McAllister v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 408, 413, 416-17, 419 [33 Cal.Comp.Cases 660].) A physician's report must also be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions. (*Yeager Construction v. Workers' Comp. Appeals Bd. (Gatten)* (2006) 145 Cal.App.4th 922, 928 [71 Cal.Comp.Cases 1687]; *Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 612 (Appeals Board en banc), 70 Cal.Comp.Cases 1506 (writ den.).)

We have given the WCJ's credibility determination great weight because the WCJ had the opportunity to observe the demeanor of the witness. (*Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 318-319 [35 Cal.Comp.Cases 500].) Furthermore, we conclude there is no evidence of considerable substantiality that would warrant rejecting the WCJ's credibility determination. (*Id.*)

We observe, moreover, it is well-established that the relevant and considered opinion of one physician may constitute substantial evidence, even if inconsistent with other medical opinions. (*Place v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 372, 378-379 [35 Cal.Comp.Cases 525].)

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ DEIDRA E. LOWE, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

DECEMBER 14, 2021

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**TAULONA WILLIAMS
PACIFIC WORKERS' COMPENSATION LAW CENTER
ACUMEN LAW, LLP**

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I certify that I affixed the official seal of
the Workers' Compensation Appeals
Board to this original decision on this date.
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REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION

INTRODUCTION

By a timely and verified Petition for Reconsideration (Petition) filed on October 15, 2021, defendant seeks reconsideration of my September 23, 2021 Findings of Fact, wherein I found that applicant, while employed ... during the period from January 12, 2015 through January 14, 2020 as a housekeeper/environmental services aide (occupational group deferred) by Kaiser Foundation Hospitals, sustained injury arising out of and in the course of employment, to her right hand. In my opinion, I relied on the medical opinion of the QME, Dr. Michael Fujinaka's October 1, 2020 report which found industrial causation.

Defendant contends: (1) the reports of the treating physician, Dr. Hadassah Rose Kreiman, issued from January of 2020 through May of 2020 do not address industrial causation; (2) the opinion of Dr. Kreiman as set forth in his June 10, 2020 non-industrial report should be followed; and (3) the opinion of the Dr. Fujinaka is not substantial evidence to support applicant's claim of injury.

Applicant did not file an answer to the Petition. I have reviewed defendant's Petition and the entire record in this matter. Based upon my review, I recommend that reconsideration be denied.

FACTUAL BACKGROUND

The factual background of this case, as set forth at pages 1-2 of the Opinion, is as follows:

Applicant testified at trial that Applicant worked as a housekeeper/environmental services aide for Kaiser since January of 2015. She works eight hours per day, five days a week, with some overtime. She would have to clean 24 private rooms; each of which has a bathroom attached. She would use a mop to clean the rooms. It was a mop with a pad attached.

She first had pain in her right hand from mopping rooms on January 14, 2020. She denies any prior injury, motor vehicle accident, or pain involving her right hand before January of 2020. She recalls seeing Dr. William Slikker and the QME, Dr. Michael Fujinaka. (*Minutes of Hearing and Summary of Evidence, [MOH/SOE]*, July 1, 2021 at p. 4.)

On cross-examination, applicant stated that she did not have any puncture in her right hand in January of 2020. (*MOH/SOE, supra*, at p. 4.)

DISCUSSION

My review of defendant's Petition does not cause me to change my opinion. In addition, to the rationale set forth in my Opinion on Decision, I make the following observations.

Defendant is correct that the reports from the treating physician prior to the June 10, 2020 report do not find industrial causation. They also do not, however, find that the injury is non-industrial. The June 9, 2020 report of the hand specialist, Dr. Slikker, initially states his diagnosis as a generic notation at page 2 of his report of simply "right hand pain." At page 3 of his report, he provided numerous *possible* diagnoses, listing them as, "Possible flexor tendon middle finger chronic tenosynovitis (lupus spectrum), vs soft tissue mass vs AVM, palmar arch aneurysm, or foreign body." He then states at page 4 of his report that he "ordered CRP and ESR to evaluate for possible inflammatory arthritis/tenosynovitis." He also recommended that applicant's condition be observed over the next month, and that additional diagnostic studies be performed if her symptoms did not improve. Taken as a whole, the opinion of Dr. Slikker is inconclusive of the cause of applicant's right hand pain.

Dr. Kreiman's statement in his June 10, 2020 report that he found applicant's "right hand condition is nonindustrial based on advanced imaging and [the] opinion of hand surgeon" is misplaced, as the imaging studies performed at Dr. Slikker's direction do not provide any clear diagnosis.

The opinion of the QME, Dr. Fujinaka, on the other hand, deals more directly with the issue of causation of applicant's right hand condition. Dr. Fujinaka reviewed numerous medical records, including those of Dr. Slikker. Dr. Fujinaka's opinion on causation is also much more consistent with applicant's un rebutted and credible testimony that she developed her right hand pain over a prolonged period of time while mopping 24 private hospital rooms, each with an attached bathroom over a workweek of 40 hours, with some overtime. Accordingly, I find that the medical evidence supports a finding of industrial injury.

RECOMMENDATION

Based upon the foregoing, it is respectfully recommended that reconsideration be denied.

Dated: November 12, 2021

JAMES GRIFFIN
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

OPINION ON DECISION

BACKGROUND

1. Witness Testimony – Applicant, Taulona Williams

Applicant testified at trial that Applicant worked as a housekeeper/environmental services aide for Kaiser since January of 2015. She works eight hours per day, five days a week, with some overtime. She would have to clean 24 private rooms; each of which has a bathroom attached. She would use a mop to clean the rooms. It was a mop with a pad attached.

She first had pain in her right hand from mopping rooms on January 14, 2020. She denies any prior injury, motor vehicle accident, or pain involving her right hand before January of 2020.

She recalls seeing Dr. William Slikker and the QME, Dr. Michael Fujinaka. (*Minutes of Hearing and Summary of Evidence, [MOH/SOE]*, July 1, 2021 at p. 4.)

On cross-examination, applicant stated that she did not have any puncture in her right hand in January of 2020. (*MOH/SOE, supra*, at p. 4.)

DISCUSSION

This claim of injury has been denied by defendant. The medical evidence supports applicant's claim of injury, with the exception of one inconsistent report from her treating physician, Dr. Hadassah Rose Kreiman of June 10, 2020 (Exh. F). Prior to this report, Dr. Kreiman authored four reports from January 14, 2020 through May 8, 2020 (Exh's A, B, C and E) which noted without critique that she was complaining of right hand pain from mopping rooms at work. In each of these four reports, she was provided with work restrictions. She was then seen by a hand surgeon, Dr. William Slikker, who provided applicant with an injection to her right hand as documented in his report of June 9, 2020 (Exh. G). Dr. Slikker does not opine one way or the other whether applicant's claim of injury is industrial or non-industrial. In his June 10, 2020 report, Dr. Kreiman states at page 3 of his June 10, 2020 report, "At this time I find that (sic) patient's right hand condition is nonindustrial based on advanced imaging and [the] opinion of hand surgeon." Dr. Kreiman does not explain what about the images supports his change in opinion on causation. Moreover, there is no opinion of the hand surgeon, Dr. Slikker, which supports the non-industrial conclusion of Dr. Kreiman.

Applicant was also evaluated by Dr. Michael Fujinaka as the Panel Qualified Medical Examiner (QME) in this matter. In his report of October 1, 2020 (Exh. 1), Dr. Fujinaka opines that it is medically reasonable that applicant's need for medical treatment and her impairment for the right had stem from the January 14, 2020 claim of industrial injury. This is also consistent with applicant's un rebutted testimony at trial. I find applicant to be a credible witness on her own behalf. Accordingly, I find that the medical evidence overwhelmingly supports a finding of industrial injury.

Dated: September 23, 2021

JAMES GRIFFIN
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE