NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F511742

BEVERLY MORRIS, EMPLOYEE CLAIMANT

BAPTIST HEALTH,
A SELF INSURED EMPLOYER RESPONDENT

CROCKETT ADJUSTMENT, TPA RESPONDENT

OPINION FILED JUNE 29, 2007

Upon review before the FULL COMMISSION, Little Rock, Pulaski County, Arkansas.

Claimant represented by HONORABLE KENNETH A. OLSEN, Attorney at Law, Little Rock, Arkansas.

Respondent represented by HONORABLE GAIL PONDER GAINES, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the Administrative Law Judge filed October 4, 2006.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1.The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. The employer/employee relationship existed at all relevant times through at least August 1, 2005, and thereafter;

3. If the claim is found to be compensable, the claimant earned an average weekly wage sufficient to entitle her to the maximum applicable compensation rate for temporary total disability and for permanent partial disability.

4. Claimant has failed to establish by a preponderance of the evidence that she sustained a compensable injury to her pelvic area, groin, and right leg caused by rapid, repetitive motion.

The claimant alleges that he sustained a compensable injury that is governed by the Arkansas Workers' Compensation Act, A.C.A. § 11-9-101 et seq. The claimant's alleged injury is, indeed, an injury that is covered by the Act; however, the claimant has failed to establish the elements necessary to prove a compensable injury by a preponderance of the evidence.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies

the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. McKINNEY, Commissioner

Commissioner Hood dissents.

DISSENTING OPINION

The claimant appeals a decision issued by an Administrative Law Judge on October 6, 2006. In that decision the Administrative Law Judge found that the claimant did not sustain a compensable gradual onset injury

in the form of a pelvic fracture during the course and scope of her employment. Specifically, the Administrative Law Judge found that while the claimant had shown that her job was repetitive, it was not performed rapidly. She further opined that the doctor’s opinion given by Dr. Slater was not stated within a reasonable degree of medical certainty and was based on the claimant’s statements and should therefore be discounted. The Majority now affirms and adopts that decision as their own. After a de novo review of the record, I find that the decision of the Administrative Law Judge should have been reversed. Accordingly, I must respectfully dissent.

First, I find that the claimant’s job duties were performed both rapidly and repetitively. As the claimant and the witnesses throughout the hearing described, the claimant’s job required her to stand and to walk all day. The claimant had no problems with her pelvis prior to August 2005, and her treating physician Dr. Slater attributed her job as the cause of her injury, thus establishing causation. I further find that the Majority commits error of law in

finding that Dr. Slater’s opinion is not stated within a medical degree of certainty and should be discounted because it is based on the claimant’s statements. The use of the words, “I think” in no way indicates that Dr. Slater had hesitation in asserting the reason for the claimant’s injury. Furthermore, the claimant provided an accurate history to Dr. Slater, and I know of no case that mandates a medical opinion based on an accurate history should be rejected.

The claimant worked for the respondent employer for some 27 years. The last 25 years she worked in the pharmacy. The claimant worked in a variety of jobs, including as a courier tech. As a courier tech, the claimant would be required to make sure medication is loaded and refilled correctly into a Pyxis machine. The couriers are also required to deliver the medications throughout the hospital to the nursing stations. The claimant described that when fully staffed there are three courier techs. Every 30 minutes a medication run has to be performed. To fulfill that duty, a tech would deliver medications on the first

floor and then take the elevator to the tenth floor. The tech would then deliver the medications going down floor by floor. When the tech returned, he would fill medications for a tech to make another run. The techs would rotate having to deliver the medications. The claimant described that this job was very fast paced and that the techs were instructed to use the stairs in going down from floor to floor. The purpose of this was to expedite the process as the techs often had difficulty completing their jobs within the allotted 30 minute time period. The claimant testified that if one used the elevator, they would not complete their job in time and that even using the stairs the techs would frequently be unable to complete their duties. The claimant further described that even if she was filling the medication rather than delivering it, she would not be sitting. The claimant estimated that she worked primarily as a courier technician or as a rehab technician. She said she worked as a courier tech some four days a week and then would work as a narcotic relief tech the other day. The claimant worked the day shifts and testified that she worked

eight hour shifts. However, she also frequently performed double shifts. She estimated working 60 hours a week.

The claimant also described that she sometimes worked delivering narcotics. The claimant said that she would start at the tenth floor and work her way down using the stairs. The claimant also said that she sometimes performed the job of IV deliveries, which would involve her taking various medications throughout the hospital on a cart. The claimant said that by July or August 2005, after she started suffering groin pain, she would work in IV deliveries, where she was able to use a cart.

The claimant’s testimony regarding her duties was largely corroborated by her witness, Miriam Wilder. Wilder testified that she worked as a pharmacy technician. She testified that she has prepared medicines, delivered medications, worked in IV delivery, and worked as a courier tech. Wilder testified that in performing the job as a courier tech workers used the stairs. Despite that, the workers would often still fail to complete their tasks

within 30 minutes and therefore medications would have to be added to the next run. She testified,

> A. We try to walk as quickly as possible and not waste time, but sometimes you have to bring meds back and add that to the next run.
>
> Q. Is that a frequent occurrence or infrequent?
>
> A. It's pretty frequent.

Walker further testified that she usually made some six to seven runs per night. She further indicated that while filling medications, one might be able to sit down on occasion, but that was not the usual rule. She indicated,

> A. If it's slow, you might sit down a little bit, but for the most part, in that 30 minutes, there's not a lot of time to sit because the labels are coming out as the pharmacists are entering the orders and you're filling the meds that are actually in the pharmacy and then the narcotics would go back to the vault and we fill those as well as any refills that may print out on the computer.

Ron Workman, pharmacy supervisor for daytime operations, also testified regarding the claimant's job

duties. Workman testified that the claimant worked in the capacity of some 12 various positions. He indicated that he had reviewed the claimant’s assignments from July to October of 2005. He indicated that the claimant had only worked as a Pyxis courier some 12 times during the four month period, but admitted that the claimant was on restriction from performing some jobs during three months of that time. He further indicated that the courier tech position would be performed more rapidly than the other positions, but also indicated that the workers would not be sitting while performing their other jobs. He described,

> A. There is an opportunity to sit, but by the nature of their - - what their job entails, they’re moving around constantly to obtain medications off the shelves, they’re going to a computer to input data and they’re answering the telephone. That’s some of their primary responsibilities, so there’s not a lot of opportunity for sitting in the majority of our technician positions or assignments.

He further testified that the claimant worked on the control drug assignment some 39 times. He described that position required making one delivery per day and said that

the workers start at the tenth floor and work their way down. He said the workers have the discretion of using an elevator or going down the stairs. Workman further indicated that he felt like the workers moved at a “steady” pace. He indicated that he had not extensively observed deliveries but that the job duties were designed to prevent work being performed so rapidly it would case error. He also indicated the claimant had worked for him for some 26 to 27 years and that he felt he she was a very good employee who was honest. He also described that she would not be allowed to work with the narcotics if she were not honest.

The claimant initially sought treatment for her injury on August 26, 2005. The claimant presented with right upper leg pain and groin pain. The claimant was referred for physical therapy and evaluation at OrthoArkansas. On October 14, 2005, Dr. John Slater treated the claimant for right lower extremity pain that went from her groin to the knee. He noted the claimant’s symptoms were “new”. The claimant reported the pain had been present for two months and indicated that she walked a lot at work. The claimant

also reported swelling in her knee and that she was taking Skelaxin. The claimant’s x-rays revealed that she had cysts in her ischium. Dr. Slater diagnosed the claimant with a possible stress reaction to the right ischium. He also noted that the claimant had patellofemaral syndrome with patellar cyst in her right knee. He also noted she was recovering from a rotator cuff repair from September 23, 2004, and indicated that she had previously suffered from plantar fasciitis of the left heel and a crush injury of the left foot in 1999. Dr. Slater recommended the claimant have an MRI. The claimant testified that at this time Dr. Slater told her the injury was work-related and due to her walking and standing all day. The claimant testified at that point she realized her injury was work-related and notified the employer.

The claimant was treated by Dr. Timothy M. Boehm on October 27, 2005. He noted the claimant had been treated by Dr. Slater and that she appeared to be suffering from a stress fracture of the pelvis. He noted the claimant was to be off work for one month and that the claimant did not

recall any particular trauma to her pelvis. He diagnosed the claimant with, "5. Stress fracture of pelvis, etiology unclear."

On November 18, 2005, Dr. Cranford treated the claimant. He noted that she was suffering pain in the right groin. The claimant also presented with back spasms. The claimant reported that her Skelaxin was not helping and that she was not working because the employer did not have a sit-down job available. Dr. Cranford found that the claimant suffered from, "1. Stress reaction, right ischium and femoral trochanter. a. Confirmed by MRI on October 14, 2005." Dr. Cranford placed the claimant on a sedentary job with limited standing and walking and prescribed Flexeril.

Another MRI was performed on January 13, 2006. It revealed that there was no evidence of bone contusion or fracture. However, the report noted,"There is edema at the ischial tuberosity bilaterally, worse on the left than the right, and mildly involving the marrow of each ischial tuberosity. This is most consistent with stress response and injury of the abductor (hamstring) insertions bilaterally."

The claimant was noted not to have hip effusion and returned negative for trochanteric bursitis of the hip.

The claimant returned to Dr. Slater on February 7, 2006, and her diagnosis of a stress reaction was reiterated. Dr. Slater indicated that he was reducing her limitations to avoid stair climbing and avoid squatting. However, he released her to stand and walk. He also instructed her to return in four weeks.

On February 15, 2006, Dr. Slater returned and indicated that she believed her injury was work-related. She indicated that her job required her to work up to 80 hours per week and that she had to walk and stand the entire time. Dr. Slater was shown correspondence with various legal questions. Dr. Slater opined that he did not believe the claimant would sustain a permanent impairment from her pelvis injury but indicated, "I do think the stress action in her pelvis is work related, as she has been very active physically at work with walking and standing long hours." Finally, on March 28, 2006, Dr. Slater indicated the claimant had reached MMI with no impairment and released the

claimant to return to work. At the time of the hearing the claimant said that she continued to receive care for her injury in the form of pain medication and cortisone shots.

The claimant contends that she sustained a gradual onset injury in the form of a pelvic fracture. The claimant requests related medical benefits and temporary total disability benefits for the time period of October 28, 2005, to March 28, 2006. The Majority denies the claim on the premise that the claimant did not show her work was rapid, and that Dr. Slater did not state his opinion within a reasonable degree of medical certainty. Finally, the Majority finds that because the opinion of Dr. Slater was based on the claimant's statements, it was essentially a matter of credibility. I must respectfully disagree.

A compensable injury is defined under Arkansas law as:

> An injury causing internal or external physical harm to the body and arising out of and in the course of employment if it is not caused by a specific incident or is not identifiable by time and place of occurrence, if the injury is:
> (a) Caused by rapid repetitive motion.

Ark. Code Ann. § 11-9-102(4)(A)(ii)(a) (Supp. 1999).

In addition, subsection (E)(ii) states that the burden of proof shall be by a preponderance of the evidence, and the resultant condition is compensable only if the alleged compensable injury is the major cause of the disability or need for treatment. Ark. Code Ann. § 11-9-102(4)(E)(ii).

Every party that testified indicated the claimant’s job would be repetitive. The real contention is regarding whether the claimant’s work was rapid. The respondents dispute that her work was performed rapidly. In asserting this argument, they contend that the claimant’s job functions changed frequently and that she presented no testimony to show that the majority of her day was spent walking or climbing stairs. They further seem to argue that unless she was acting as a courier, her job would not be performed as rapidly. However, after reviewing the record, I must disagree with the respondents. It is undisputed that regardless of which task the claimant was performing, she would be required to be standing and moving constantly. This

movement admittedly caused her to walk constantly and to climb stairs on a frequent basis. While the claimant did not offer any evidence as to how many times she lifted her legs while walking, it is apparent that the claimant had to walk and climb stairs on a continual basis while working. Furthermore, the claimant testified that she worked as a courier tech some four days a week prior to her injury, and the evidence shows that job required her to walk and climb stairs at a very rapid pace. Finally, I find that it is apparent that the claimant's other job duties also required her to walk or climb stairs at a rapid pace as evidenced by the descriptions of the jobs themselves.

The Court has previously determined that an injury caused by rapid and repetitive motion must be evidenced by tasks that are repetitive and that the repetitive motion itself must be performed rapidly. As such, a repetitive motion that is not performed rapidly Malone v. Texarkana Public Schools, 333 Ark. 343, 969 S.W.2d 644 (1998). The Court has further indicated that multiple tasks may be considered together in determining whether the repetitive

requirement is met. Baysinger v. Air Systems, Inc., 55 Ark. 174, 934 S.W.2d 230 (1996). However, the Court has also determined that in instances where the duties or tasks are separated by intervals that are several minutes long, the work is not rapid and repetitive. Lay v. United Parcel Service, 58 Ark. App. 35, 944 S.W.2d 867.

The Court has also determined that a worker who used an air gun to attach bolts at the rate of one per fifteen seconds would be sufficient to constitute rapid and repetitive motion. See High Capacity Prods. V. Moore, 61 Ark. App. 1, 962 S.W.2d 831 (1998). Additionally, the Court has awarded benefits when a worker performed repetitive motions at the rate of 115 to 120 times per day with 1.5 minute intervals between. See Boyd v. Dana Corp., 62 Ark. App. 78, 966 S.W.2d 946 (1998). However, the Court has held that a custodian did not perform rapid repetitive motions, despite repeating motions, because the movements in completing the tasks were different and were separated in time. See Malone, supra. The Court has further determined that one must, "consider the positioning of the part of the

body as well as the number of movements the claimant has to undergo to determine if the movement is 'rapid and repetitive'" Patterson v. Frito-Lay, Inc., 66 Ark. App. 159, 992 S.W.2d 130 (1999).

In the present case, the claimant performed a myriad of duties which required her to be walking or climbing stairs. The claimant testified that some four days a week she acted as a courier. The claimant, Wilder, and Workman, all agreed that this task would be scheduled for 30 minutes. Likewise, all three testified that it would be ordinary for the courier to climb down ten flights of stairs and deliver medications within that time frame. Wilder and the claimant testified that the stairs were used because of time constraints. Both also testified that the job pace was quick and that frequently they were physically unable to complete their duties. Certainly, if one considers each step as the movement being considered as rapid and repetitive, it is apparent that the claimant would be moving at an extremely rapid pace to deliver medications and then walk down ten flights of stairs. While I note Workman's testimony

that such was not performed rapidly, the evidence shows otherwise. The claimant and Wilder both testified that the job was often not completed on time and that time was of the essence in performing the job. Furthermore, common sense indicates that to complete such a task would require rapid and repetitive motion. Some 50% of their day was spent performing that task and the claimant performed that task four days a week. I note that in Patterson, the claimant estimated she had to sit on her knees and move forwards and backwards some 40% of the time. As such, even if the claimant had lapses in her job as a tech, it is clear that she still has met her burden of proof in showing her work was rapid and repetitive.

Furthermore, even when the courier was filling medication, it is undisputed they would be responsible for doing various other tasks that would require them to be on their feet and walk. While it appears that such was not done as rapidly, all the parties admit that the claimant would still be moving constantly, and therefore, it is clear that the claimant would still be taking steps at a rate

sufficient to satisfy the definition of rapid and repetitive motion.

The Majority and the respondents seem to argue that the job of courier tech is the only job that could possibly be considered to be performed at a rapid pace. They also seem to rely heavily on the fact that there is a dispute regarding how often the claimant worked as a courier tech. I first find that the claimant's testimony regarding how often she worked as a courier tech is more credible than that of Workman. Specifically, I note that Workman admitted that the records he had which were available were largely during a time period where the claimant was on restriction. Therefore, I cannot conclude that the records he looked at were representative of the claimant's usual schedule. Furthermore, he testified the claimant was honest and of good character, which lends credence to her testimony.

However, even if one does not believe the claimant's testimony regarding how often she acted as a courier, I find that her other job duties would still be sufficient to show rapid and repetitive action to sustain a

compensable injury. In particular I note that every job that was described required the claimant to perform tasks that involved walking on a continual and constant basis. While the claimant was not necessarily given time constraints on any job other than that of courier, it is evident from the testimony of the parties that the jobs still had to be performed in a timely fashion or the patients would suffer. It is undisputed that the jobs were designed to promote efficiency and that they were time sensitive because they required dispensing of medication. Likewise, when considering the description of the jobs it is apparent that they had to be performed at a fast pace. In particular I note that the job of BRI would require the claimant to fill medication and make some six to seven deliveries to another institution within a ten hour shift. Workman testified this medication was taken to another location that was connected to the hospital by an underground corridor and that the worker might possibly use the stairs of the four story facility to deliver medications to each floor. Certainly, this would require extensive walking at a rapid pace.

Likewise, the job of IV tech or narcotic technician would still require the claimant to deliver medications throughout the entire hospital, thus requiring extensive and continual walking at a rapid pace.

When considering the aforementioned cases, it becomes apparent that the claimant's actions were, indeed, both rapid and repetitive. While the claimant did not testify regarding how many steps she took a day or how many stairs she climbed a day, it is apparent that she walked continuously and that a significant portion of her jobs, not just the position of courier tech, required her to climb stairs. Furthermore, all the parties agree that regardless of the job, the claimant would be moving constantly and seem to agree that the majority of the claimant's time would be spent on her feet and "moving around." While Workman described the claimant's pace would be "steady", he also admitted the workers would be continually moving and generally busy. Furthermore, I also note that Wilder testified he did not always observe deliveries. When considered in conjunction with the testimony of Wilder

regarding the urgency in which deliveries had to be made, it is apparent that his description for the pace of workers was not accurate. In fact, even the Administrative Law Judge described the claimant's movements as "brisk". Certainly, the use of the word "brisk" would indicate that the claimant was performing her job at a rapid pace.

Furthermore, I note that in the case of Patterson, supra, the claimant's activities were considered to be rapid and repetitive when the claimant testified that she spent some 40% of her time on her knees moving back in forth in order to stock shelves and had to bend and squat to perform her job. In this instance all the parties agree that the claimant would have spent virtually all of her time walking and without having substantial periods of time where walking was not required. While the respondents attempt to assert that there were lapses of time where the claimant did not have to work as rapidly, I reiterate that even during the "slow" times the claimant would be walking fast enough to show rapidity. I also note that four days of five of the claimant's job would have been as a courier and therefore

performed at an even more rapid pace. Finally, I reject the Majority’s assertion that a lunch hour or break would somehow serve as a break in establishing the rapidity of the performance of the job. I find this to be particularly disturbing since these breaks would have been required by labor regulations.

I also find that the claimant has shown that her walking and climbing stairs were the major cause of her injuries. The claimant credibly testified that she had never suffered symptoms such as those she received treatment for in relation to the stress fracture. There is no evidence to rebut that testimony, nor do the medical records provide any evidence to the contrary. Furthermore, there is no indication that the claimant had engaged in any other activity that would have caused her to sustain a stress fracture. Finally, I note that the claimant’s treating physician, Dr. Slater, explicitly indicated the claimant’s work caused the stress fracture. Accordingly, I find the claimant sustained a compensable gradual onset injury.

I further find that the Majority errs as a matter of law in finding that Dr. Slater’s opinion was not stated within a reasonable degree of medical certainty. I find that Dr. Slater’s opinion was sufficient to remove any doubt regarding causation and therefore establishes compensability. In discussing this issue I also note that the Majority makes reference that Dr. Slater found the claimant’s condition to be due to lifting. This is simply not accurate. Nowhere in the file does the claimant or Dr. Slater advocate such a position. I find this statement by the Majority to be especially curious given that the remainder of their decision seems to correctly discuss that the claimant was contending that she sustained an injury due to standing, walking, and stair climbing.

Medical opinions addressing compensability must be stated within a reasonable degree of medical certainty. Ark. Code Ann. § 11-9-102(16)(B). Expert opinions based on “could,” “may,” or “possibly” lack the definiteness required to prove causal connection. Frances v. Gaylord Container Corp., 341 Ark. 527, 20 S.W.3d 280 (2000). However, where a

medical opinion is sufficiently clear to remove any reason for the trier of fact to have to guess at the cause of the injury, that opinion is stated within a reasonable degree of medical certainty. Huffy Service First v. Ledbetter, 76 Ark. App. 533, 69 S.W.3d 449 (2002), citing Howell v. Scroll Tech., 343 Ark. 297, 35 S.W.3d 800 (2001). In addition, a finding of causation in a worker’s compensation case does not need to be expressed in terms of a reasonable medical certainty when there is supplemental evidence supporting the causal connection. Heptinstall v. Asplundh Tree Expert Company, CA 03-11, December 10, 2003 (E913717).

Furthermore, in Wal-Mart Associates v. Davis, CA 06-1109, CA 06-1109 (Ark.App. 5-2-2007), the Court of Appeals noted,

> We are mindful of our statutory requirement that "[m]edical opinions addressing compensability and permanent impairment must be stated within a reasonable degree of medical certainty." Ark. Code Ann. § 11-9-102(16)(B) (Supp. 2005). The Arkansas Supreme Court, however, "has never required that a doctor be absolute in an opinion or that the magic words `within a reasonable degree of medical certainty' even be used by the doctor," but rather, "has

> simply held that the medical opinion be more than speculation." Freeman v. Con-Agra Frozen Foods, 344 Ark. 296, 303, 40 S.W.3d 760, 765 (2001). The court observed that "if the doctor renders an opinion about causation with language that goes beyond possibilities and establishes that work was the reasonable cause of the injury, this should pass muster." Id.

In the present case, the language in question is from the medical report, dated February 15, 2006. In that note, Dr. Slater indicates that the claimant had presented him with various legal questions. Dr. Slater opined,

> ... I think the stress reaction in the pelvis and the hamstring pull will be something from which she will recover fully and there will not be an permanent partial impairment from this. The lumbosacral strain will not leave her with any partial impairment. She has had a rotator cuff repair and a resection of the distal clavicle. There is some permanent partial impairment from that. She has had fasciitis in her heels, but I do not think there will be any permanent partial impairment from that. I do think the stress action in her pelvis is work related, as she has been very active physically at work with walking and standing long hours.

(Emphasis added).

Though Dr. Slater does not use the "magic words" of "reasonable degree of medical certainty", certainly his language is clearly sufficient to show that he believed the claimant's condition to be due to her rapid and repetitive walking and climbing stairs at work. Dr. Slater in no way indicated that he had any hesitation in finding the claimant's work caused her injury, nor did he indicate that there would be any other possible reason for the claimant's injury. Rather, he simply asserts his opinion on the cause of the claimant's injury. As there is no evidence that his opinion was uncertain, I find that it is sufficient to Certainly to imply that the simple use of the word, "think" somehow shows uncertainty is incorrect. Rather, I find that Dr. Slater's opinion is based on more than a mere possibility and shows that the claimant's work was the reasonable cause of her injury. I also note the Majority gives absolutely no reason for her erroneous assertion that Dr. Slater's use of the word "think" would not be sufficient to satisfy the provision that his opinion be stated within a reasonable degree of medical certainty. Furthermore, for

them to speculate that he was somehow doubtful in his opinion is impermissible speculation and conjecture. Finally, I note that to adopt the approach of the Majority would be to, in effect, discount the opinion of any doctor that is not familiar with workers' compensation. As such, I find that their rationale should be rejected.

Finally, I address the Majority's supposition that the opinion of Dr. Slater should be discounted because he relied on the claimant's statements. I recognize that, in the past, the Courts have indicated that the Commission is not bound by a doctor's opinion that is based on facts related by a claimant where the claimant's own testimony is less than determinative. See, Roberts v. Leo Levi Hospital, 8 Ark. App. 184, 649 S.W.2d 402 (1982). However, this has never stood for the proposition that when an accurate history is given, the doctor may not consider that information in determining if causation exists. As this claimant gave an accurate history and there is no other explanation for the claimant's injury, I find that the opinion of Dr. Slater is entitled to great weight.

Furthermore, it is apparent that in this instance, Dr. Slater was familiar with the claimant’s medical condition as he had treated her for other injuries. In fact, one month before, he had released her from care for a rotator cuff injury. As Dr. Slater was familiar with the claimant’s prior conditions, I specifically reject the respondent’s argument that one of the claimant’s other injuries would somehow be relevant. I also note that the claimant reported that she was performing work which required her to walk and climb stairs for long hours. This is a description which is agreed upon by all the witnesses that testified. As such, it is evident that the opinion of Dr. Slater was based on correct information and should be given great weight. Finally, I note that Workman testified the claimant was very honest and a good worker, which lends credence to the fact that the claimant provided accurate information to Dr. Slater and supports his conclusions.

For the aforementioned reasons I would have reversed the decision of the Administrative Law Judge and

awarded medical and temporary total disability benefits and must now respectfully dissent.

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PHILIP A. HOOD, Commissioner