Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: February 6, 2015

CLAIM NO. 201266710

LACANDA MARTIN PETITIONER

VS. **APPEAL FROM HON. GRANT S. ROARK, ADMINISTRATIVE LAW JUDGE**

UPS SUPPLY CHAIN SOLUTIONS, INC.
HON. GRANT S. ROARK,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING

* * * * * *

BEFORE: ALVEY, Chairman, STIVERS and RECHTER, Members.

RECHTER, Member. Lacanda Martin ("Martin") appeals from the August 25, 2014 Opinion and Order and October 3, 2014 Order on Petition for Reconsideration rendered by Hon. Grant S. Roark, Administrative Law Judge ("ALJ"). The ALJ determined Martin had failed to prove her carpal tunnel syndrome is work-related, and dismissed the claim. Martin

appeals, arguing the evidence compels a different conclusion. We affirm.

Martin alleged she developed bilateral carpal tunnel syndrome and cervical problems as a result of her repetitive job duties while employed at UPS Supply Chain Solutions, Inc. ("UPS"). Her job involved taking the labels off old computers, affixing new labels, cleaning the unit, repackaging and loading it onto a truck. She processed approximately 25 computers per hour, and the position required a great deal of lifting and gripping.

Martin first reported that she needed medical treatment for right wrist pain in March 2008. Her supervisor questioned whether the pain was work-related. Martin visited Dr. Tsu-Min Tsai for treatment using her personal health insurance. On May 1, 2008, Dr. Tsai diagnosed carpal tunnel syndrome and left cubital tunnel syndrome. He recommended therapy and light duty work status. He also ordered an EMG/NCV study which was not approved by UPS' workers compensation carrier.

When UPS learned Martin had scheduled an appointment with Dr. Tsai, she was requested to visit BaptistWorx. BaptistWorx records indicate Martin was seen on April 23, 2008. She complained of upper extremity pain and bilateral numbness. Dr. Peter Urda diagnosed overuse

syndrome of the bilateral wrist and placed Martin on restrictions of no repetitive gripping.

Martin was off work from May 1, 2008 through July 1, 2008. She returned to her previous job until March 2, 2009, when she went on maternity leave. She returned to UPS in September, 2009. She testified that she continued to work with symptoms.

Martin returned to Dr. Tsai on July 20, 2010, who restricted her to light duty work. He obtained the EMG/NCV study which was originally requested in 2008. The study indicated left ulnar neuropathy consistent with cubital tunnel syndrome and mild bilateral carpal tunnel syndrome. Dr. Tsai recommended surgery, however authorization was denied.

Dr. Amit Gupta conducted an independent medical evaluation at UPS' request. He reviewed Martin's treatment records and the EMG/NCV study report. Dr. Gupta noted the study revealed very mild carpal tunnel syndrome, and he was unable to find any clinical evidence of carpal tunnel syndrome or peripheral nerve compression. He also noted Martin's complaints began in 2008, but her symptoms had not improved with extended periods off work.

At a later deposition, Dr. Gupta concluded Martin's symptoms were not work-related because they did not

resolve with time off work. He also emphasized that his examination revealed no evidence of carpal tunnel syndrome except a mildly positive Tinel's sign with deep tapping. He found no significant nerve compression or evidence of a brachial plexus injury. He suspected her arm and wrist symptoms may have been caused by pregnancy or normal aging process. He did not recommend surgery, and placed Martin at maximum medical improvement.

Dr. Jerry Morris conducted an independent medical evaluation at Martin's request. He diagnosed repetitive stress disorder resulting in bilateral carpal tunnel syndrome and left cubital syndrome. He also opined Martin had received inadequate medical attention for this condition, which aggravated the symptoms. Referencing the American Medical Association, Guides to the Evaluation of Permanent Impairment, 5th Edition ("AMA Guides"), Dr. Morris assigned a 31% impairment for loss of grip strength in both hands, and a 3% impairment for pain, for a total whole person impairment of 34%.

The ALJ determined Martin had failed in her burden of establishing her condition was work-related. In reaching this conclusion, he relied on Dr. Gupta's opinion. The ALJ noted three points raised by Dr. Gupta which he found particularly persuasive: (1) that Martin was pregnant when

she initially experienced symptoms in 2008, which is a potential cause of carpal tunnel syndrome; (2) that Martin's symptoms did not improve with light duty or time off work; and (3) that Martin's clinical examination is not consistent with bilateral carpal tunnel syndrome, despite mild EMG findings. As such, the ALJ dismissed the claim. Martin's subsequent petition for reconsideration was denied.

On appeal, Martin argues the ALJ's opinion is not supported by substantial evidence. As the claimant in a workers' compensation proceeding, Martin bore burden of proving each of the essential elements of her cause of action. Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Because she was unsuccessful in that burden, the question on appeal is whether the evidence compels a different result. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). "Compelling evidence" is defined as evidence that is so overwhelming, no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985). The function of the Board in reviewing the ALJ's decision is limited to a determination of whether the findings made by the ALJ are so unreasonable under the evidence they must be reversed as a matter of law. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000).

On appeal, Martin essentially argues UPS denied or delayed treatment for a condition that they knew to be work-related as early as April, 2008. It points to the opinions of Drs. Tsai and Urda which, according to Martin, conclusively indicate her condition is work-related. Even if we accept this generous interpretation of Dr. Tsai's records as true, the ALJ determines the quality, character and substance of the evidence. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993). Although a party may note evidence supporting a different outcome than reached by an ALJ, such is not an adequate basis to reverse on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). Dr. Gupta's medical opinion and testimony constitutes the requisite substantial evidence upon which the ALJ may base his decision. Special Fund v. Francis, 708 S.W.2d 641 (Ky. 1986).

Martin has alleged misconduct by UPS in its brief to this Board, and before the ALJ. Regardless of their merit, these allegations are not relevant to the primary issue for determination - work-relatedness of Martin's condition. For the reasons set forth above, we conclude the ALJ's decision was based on substantial evidence and, as such, may not be disturbed on appeal.

Accordingly, the August 25, 2014 Opinion and Order and the October 3, 2014 Order on Petition for Reconsideration rendered by Hon. Grant S. Roark, Administrative Law Judge are hereby **AFFIRMED**.

ALL CONCUR.

COUNSEL FOR PETITIONER:

HON PHILLIPE W RICH
1001 TREVILIAN WAY
LOUISVILLE, KY 40213

COUNSEL FOR RESPONDENT:

HON CHRISTOPHER G NEWELL
10503 TIMBERWOOD CIRCLE, STE. 112
LOUISVILLE, KY 40223

ADMINISTRATIVE LAW JUDGE:

HON. GRANT S. ROARK
PREVENTION PARK
657 CHAMBERLIN AVE
FRANKFORT, KY 40601