Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: December 4, 2013

CLAIM NO. 201298601

TRACTOR SUPPLY COMPANY, INC. PETITIONER

VS. **APPEAL FROM HON. JONATHAN R. WEATHERBY, ADMINISTRATIVE LAW JUDGE**

ANNA CARUSO
and HON. JONATHAN R. WEATHERBY,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING
* * * * * *

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

STIVERS, Member. Tractor Supply Company, Inc. ("Tractor Supply") appeals from the May 28, 2013, opinion and award of Hon. Jonathan R. Weatherby, Administrative Law Judge ("ALJ") finding Anna Caruso ("Caruso") is permanently occupationally disabled and awarding temporary total disability ("TTD") benefits, permanent total disability ("PTD") benefits, and medical benefits. Tractor Supply

also appeals from the June 25, 2013, order overruling its petition for reconsideration.

On appeal, Tractor Supply asserts the ALJ's decision is not supported by substantial evidence and he did not sufficiently explain the basis for his determination Caruso is totally occupationally disabled. It also asserts in concluding Caruso is permanently totally disabled the ALJ did not conduct the proper analysis required by Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000).

Caruso alleged injuries to her right wrist on February 22, 2011, and to her left wrist on December 10, 2011. She also alleged a psychological injury. Caruso testified at a December 18, 2012, deposition and at the March 26, 2013, hearing.

During her deposition, Caruso testified she was fifty-three years old and began working for Tractor Supply in February 2010 and last worked there on December 18, 2011. Her job involved stacking and loading items and stocking shelves. She regularly lifted fifty pounds.

Before moving to Kentucky, Caruso worked at Petland in Illinois for less than a year where she sold puppies, dog food, and cages. Independent of her job at Petland, she also sold horses. Throughout her life, Caruso

also trained horses but primarily gave riding lessons. Sometime after she turned eighteen, Caruso also worked for Illinois Bell for over a year as an information operator. Caruso worked at P & C Masonry, a business owned by her and her husband, from 1992 to 2008. While working for P & C Masonry she did the payroll, ordering, and sometimes picked up material. When she stopped working for P & C Masonry and began working for Petland, Caruso continued to work with horses and give riding lessons.

Caruso testified she injured her right wrist on February 22, 2011, when she was helping one of the team leaders lift and move an air compressor. Because of the immediate pain, she knew something was wrong. She described the feeling in her right wrist as a "pop crackling." She finished her shift and went to the hospital in Murray the next day. The day after she went to the hospital, Caruso returned to work and told her supervisor what had occurred. After seeing various physicians to whom she was referred, her family physician, Dr. Adams, referred her to Dr. Joseph Kutz with Kleinert Kutz.[1] Dr. Kutz ultimately performed surgery on December

[1] The transcript spells Dr. Kutz's name C-O-O-T-S which is an obvious typographical error as the medical records reflect the spelling as set out above.

19, 2011. Caruso testified the surgery has not helped her pain. She ruptured her right wrist in February 2012 while in physical therapy. As a result, she returned to Dr. Kutz and stopped physical therapy. Until the date of the surgery, Caruso continued to work at Tractor Supply.

Caruso sustained a second injury on December 10, 2011, when a customer handed her a twenty-five pound bag of feed and then placed other items on top of the bag. At that time she heard a "rip sound" in her left wrist. Caruso immediately told the assistant manager about the injury and finished her shift. Dr. Kutz treated the left wrist injury. Surgery has not been performed on the left wrist.

Caruso testified she wears braces on both wrists "off and on." She characterized the pain level in both wrists as eight or above on a scale of ten. The pain in her right wrist is worse. On some days she has less pain. She takes Daypro for pain and also takes over-the-counter medications for pain and as a sleep aid.

Caruso testified she has applied to work as a personal assistant for a "disabled girl" which involves sitting with her and driving her. She has also applied over the internet for sales positions but has not applied for clerical or factory work.

Caruso no longer works with horses and her friends help take care of her horses. She can no longer ride horses. She no longer cooks because she has trouble using a knife. She is able to drive, shop for groceries, and pay her bills. Similarly, she can bathe and dress herself. She testified she becomes angry when she has difficulty performing tasks she was previously able to perform. Her sleeping problems include nightmares. She has problems with crying and has thoughts of hurting herself. She has sought treatment from Dr. Tom Wagner for emotional problems. Because she has no money, she is unable to see a psychiatrist or obtain prescription medication for her emotional problems.

At the hearing, Caruso further explained that in late October or November 2010 she sprained her right wrist lifting a small jack. Believing it was not a severe sprain, she continued working and did not report the injury or seek medical care. She testified the next event occurred on February 22 or 23, 2011, when she felt a pop while picking up the air compressor. After experiencing the right wrist injury, she worked her normal part-time hours using her left hand. Prior to the December 19, 2011, surgery, Caruso injured her left wrist on December 10, 2011. She explained that after hearing the ripping sound

when the twenty-five pound bag of food and some other items were handed to her, she also heard that same sound when she was at the register.

Caruso testified she is right hand dominant and the condition of her hand as “not good.” She experiences constant pain and has lost all strength in her right hand. She believes her left hand is getting worse, but is better than her right. She is not able to perform her daily activities and wears a brace on her right hand to stabilize her wrist and decrease her pain. Surgery has not been performed on her left wrist. Occasionally, she wears a brace on her left wrist.

Caruso testified she has someone help her with “everything.” She experiences terrible anxiety attacks. She runs a vacuum for a few minutes, but is unable to finish vacuuming. She does the laundry but is unable to hang up the clothes. She does not cook because she is unable to use a knife which she believes would be “very dangerous.” She has problems gripping items with either hand. Although she has fed her horses and tried to “muck a stall,” she is still unable to take care of her horses and maintain her barn. At the time of the hearing, someone else fed and cared for the horses and maintained the barn. Even though recommended by Dr. Kutz, Caruso has not had

physical therapy because it has not been approved. Further surgery including a fusion has been recommended.

Caruso has attempted to find work, and in late January she began working for a friend who has cerebral palsy. The student is not restricted to her wheelchair and is able to use the bathroom without assistance. She explained she sits with the student, occasionally microwaves food, and sometimes drives her to town. Caruso does the grocery shopping, sometimes accompanied by the student. Her work for the student ends in May as she is finishing her Masters Degree and will be returning to Louisville. Caruso receives $15.00 per hour and the number of hours worked varies. She usually works Monday, Wednesday, and Friday averaging between fifteen and twenty hours per week. Caruso stopped receiving unemployment benefits when she took this job. She explained she obtained this job because her daughter knows the student.

Caruso testified that since 2010 she has not earned a commission for selling horses. Caruso acknowledged she called and faxed her supervisor at Tractor Supply about attempting to return to work, but was advised to contact another person and when she did, was told she had been terminated. Caruso admitted if Tractor Supply had

offered her a position, she would have tried to perform the job.

Caruso introduced the medical records and Form 107 of Dr. Kutz. She introduced the report of Dr. Thomas Muehleman generated at the request of the Kentucky Department for Disability Determination. She also introduced the report of Dr. Wagner, Ph.D., psychologist and vocational consultant and the reports of Dr. Martin Fulbright and Dr. Jeff Watson, an assistant professor in orthopedics and rehabilitation at Vanderbilt University, who saw Caruso at the request of Dr. Fulbright.

Tractor Supply introduced the report and deposition of Dr. Thomas Gabriel, the report and deposition of Dr. Robert Granacher, and the report of Dr. Richard DuBou generated as a result of an independent medical evaluation ("IME") dated April 26, 2012.

Relative to the issue on appeal, the ALJ entered the following findings of fact and conclusions of law:

Injury as Defined by the Act

> 24. Injury is defined as "any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings." KRS 342.0011(1).

25. The reports of both Dr. Kutz and Dr. Gabriel reference herein clearly establish an injury as that term is defined in the Act.

Benefits Per KRS 342.730

26. Permanent total disability is defined in KRS 342.0011(11)(c) as the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury. *Hill v. Sextet Mining Corporation*, 65 SW3d 503 (KY 2001).

27. "Work" is defined in KRS 342.0011(34) as providing services to another in return for remuneration on a regular and sustained basis in a competitive economy. The statutory definition does not require that a worker be rendered homebound by his injury, but does mandate consideration of whether he will be able to work reliably and whether his physical restrictions will interfere with his vocational capabilities. *Ira A. Watson Department Store v. Hamilton*, 34 SW3d 48 (KY 2000). In determining whether a worker is totally disabled, an Administrative Law Judge must consider several factors including the worker's age, education level, vocational skills, medical restrictions, and the likelihood that he can resume some type of "work" under normal employment conditions. *Ira A. Watson Department Store v. Hamilton, supra.*

28. The Plaintiff has significant work restrictions and substantial physical and psychological impairment ratings. The restrictions imposed by Dr. Kutz are particularly compelling and would preclude the Plaintiff from performing almost any type of work in a

> competitive economy. She has a high school education and a work history that involves lifting and heavy work. The Plaintiff wears wrist braces and is in constant pain precluding her from performing even sedentary work.
>
> 29. The ALJ therefore finds that the Plaintiff is permanently and totally occupationally disabled.

The ALJ determined Caruso was temporarily totally disabled from December 19, 2011, through June 11, 2012, and awarded TTD benefits followed by PTD benefits commencing on June 12, 2012.

Both parties filed petitions for reconsideration. In her petition for reconsideration, Caruso requested the ALJ correct the award to reflect she is awarded the statutory minimum amount of TTD and PTD benefits. In its petition for reconsideration, as it does on appeal, Tractor Supply pointed to Caruso's testimony indicating at the time of the hearing she had obtained employment. It argued that although the ALJ found she was totally disabled, Caruso is currently earning a wage which is higher than her average weekly wage ("AWW") at Tractor Supply, which it insisted was $300.00 per week. Tractor Supply requested the ALJ reconsider the determination Caruso is permanently totally disabled.

Tractor Supply also cited to the fact Caruso had prior jobs involving little or no physical activity from 1992 to 2008 when she worked as the vice-president of P & C Masonry, had worked for Illinois Bell, and had sold horses receiving commissions. Thus, it requested the ALJ to reconsider his decision and to award permanent partial disability benefits. Tractor Supply also argued the medical evidence did not support a finding of an injury to either wrist. Lastly, it took issue with the ALJ's reliance upon the evaluation of Dr. Wagner and his impairment rating, arguing Dr. Granacher's testimony establishes Dr. Wagner's impairment rating is not in conformity with the 2nd Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment ("AMA Guides"). Further, Dr. Granacher indicated Caruso was capable of returning to work at Tractor Supply with no restrictions. It maintained the ALJ erroneously determined Caruso was 100% occupationally disabled. Significantly, it concluded by arguing:

> [T]he overwhelming evidence including the uncontroverted testimony that the Claimant is **currently** working is in direct contravention to the statutory definition of Permanent Total Disability.

It requested the ALJ reconsider the uncontroverted facts that Caruso "has aptly demonstrated her capability of not only applying for and receiving Unemployment Benefits, but actually working within her local labor market."

In the June 24, 2013, order the ALJ corrected the award of TTD benefits to reflect Caruso is entitled to the statutory minimum.[2] However, the ALJ overruled Tractor Supply's petition for reconsideration concluding as follows:

> The Defendant's Petition references the Plaintiff's current employment in assigning error to the finding of permanent total disability. The ALJ reiterates the prior finding that the Plaintiff's employment is temporary and involves sitting with another individual to provide companionship. This is an unusual and limited employment situation for a person that the Plaintiff described as a friend and does not constitute sustained employment in a competitive economy. The ALJ's conclusion in this regard is therefore supported by sufficient findings and the Defendant's Petition is therefore **DENIED**.

[2] Caruso filed a second petition for reconsideration asserting the order ruling on her petition for reconsideration corrected the award of TTD benefits but failed to award the minimum statutory amount of PTD benefits for 2011. By order dated August 12, 2013, the ALJ sustained Caruso's second petition for reconsideration and awarded the minimum statutory amount of PTD benefits.

Tractor Supply did not file a petition for reconsideration pertaining to the ALJ's June 25, 2013, order.

On appeal, Tractor Supply again argues that although the ALJ opined Caruso is permanently totally disabled she was actually working earning a higher AWW than she earned prior to her wrist injuries. Tractor Supply sets out a portion of Caruso's hearing testimony regarding her employment as a sitter which began in January 2013, and argues based on the statutory definition of permanent total disability, Caruso cannot be totally occupationally disabled.

Tractor Supply also argues the uncontroverted evidence establishes Caruso had a significant vocational history of performing jobs involving "NO arduous or repetitive physical activity." It again references Caruso's testimony regarding the work she performed for P & C Masonry, her work with horses, and her two year stint as an information operator with Illinois Bell. It complains without explanation the ALJ opined Caruso's current light duty restrictions "prevent her from work."

It maintains the ALJ erroneously described her prior work as heavy work when there was no evidence to support such a conclusion. Tractor Supply notes the ALJ

cited to Dr. Kutz's opinions as particularly compelling and stated that his restrictions preclude Caruso from performing any type of work in the competitive economy. It also references the ALJ's statement Caruso has a high school education and her work history involves lifting and heavy work. Tractor Supply argues in making these statements the ALJ failed to consider Caruso's entire work history, specifically her work for P & C Masonry and Illinois Bell which was "wholly light duty."

In addition, Tractor Supply argues the ALJ did not sufficiently explain "the rationale for defying the statutory definition of permanent total disability" in light of the fact Caruso was earning wages and capable of doing a number of jobs for which she had prior experience and training. It argues, at best, Caruso is permanently partially disabled and her inability to perform her prior job "does not automatically equal permanent total disability." Consequently, the ALJ's opinion does not provide sufficient findings of fact to inform the parties of the basis for his determination of permanent occupational disability. It contends the ALJ failed to explain why Caruso's sixteen year history of owning and operating a business which involved no physical labor precluded her from a return to gainful employment. Since

the ALJ did not perform the analysis as required by Ira A. Watson Department Store v. Hamilton, supra, the decision of the ALJ should be vacated and the claim remanded for findings consistent with the evidence presented.

A claimant in a workers' compensation claim bears the burden of proof and risk of non-persuasion before the ALJ, as fact-finder, with regard to each of the essential elements of his cause of action. Burton v. Foster Wheeler Corp., 72 S.W.3d 925, 928 (Ky. 2002). A decision in favor of the claimant must be based upon substantial evidence and, therefore, be reasonable to survive on appeal. Brown-Forman Corp. v. Upchurch, 127 S.W.3d 615 (Ky. 2004). Since Caruso was successful before the fact-finder in regard to her claim, the question on appeal is whether substantial evidence of record supports the ALJ's decision. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). "Substantial evidence" is defined as evidence of relevant consequence having the fitness to induce conviction in the minds of reasonable persons. Smyzer v. B. F. Goodrich Chemical Co., 474 S.W.2d 367 (Ky. 1971). The function of the Board in reviewing the ALJ's decision is limited to a determination of whether the findings made are so unreasonable under the evidence that they must be

overturned. Ira A. Watson Department Store v. Hamilton, supra.

In rendering a decision, KRS 342.275 and KRS 342.285 grant the ALJ, as fact-finder, the sole discretion to determine the quality, character, and substance of evidence. AK Steel Corp. v. Adkins, 253 S.W.3d 59 (Ky. 2008). The ALJ may draw reasonable inferences from the evidence, reject any testimony, and believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same adversary party's total proof. Caudill v. Maloney's Discount Stores, 560 S.W.2d 15, 16 (Ky. 1977). In that regard, an ALJ is vested with broad authority to decide questions involving causation. Dravo Lime Co. v. Eakins, 156 S.W. 3d 283 (Ky. 2003). Although a party may note evidence that would have supported a different outcome than that reached by the ALJ, such evidence is not an adequate basis to reverse on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). The Board, as an appellate tribunal, may not usurp the ALJ's role as fact-finder by superimposing its own appraisals as to weight and credibility, or by noting reasonable inferences that otherwise could have been drawn from the evidence. Whittaker v. Rowland, 998 S.W.2d 479, 481 (Ky. 1999). So long as the ALJ's ruling with regard to

an issue is supported by substantial evidence, it may not be disturbed on appeal. Special Fund v. Francis, 708 S.W.2d 641, 643 (Ky. 1986).

Dr. Kutz's Form 107 dated February 26, 2013, reveals he diagnosed the following injuries:

> 1) hyperextension injury to the right wrist on 11/2/10 while lifting a jack onto the third shelf; 2) right wrist injury again on 2/23/11 when lifting an air compressor; 3) pop in left wrist on 12/10/11 with possible ligament tear.

Regarding the treatment Caruso had received, Dr. Kutz stated as follows:

> 12/19/11 – ORIF of the scapholunate ligament of the right wrist with Mitek anchors and reinforcement with the radial capitate ligament. Subsequent x-rays show widening of scapholunate gap; needs proximal row carpectomy
>
> MRI of the left wrist on 1/3/12 – suggestive of a partial tear of the flexi carpi radialis; now with residual tenosynovitis.

Dr. Kutz's diagnosis is as follows:

> 1. SLAC deformity of the right wrist status post repair with widening scapholunate gap.
>
> 2. Partial tear of the FCR tendon of the left wrist now with secondary residual tenosynovitis.

Accordingly, Dr. Kutz assessed a total impairment pursuant to the AMA Guides of 10% for the injuries to Caruso's left and right wrists. He did not impose restrictions for

sitting, standing, or walking. However, Dr. Kutz indicated Caruso was restricted to five pounds for frequent lifting or carrying using both hands. She should never lift anything above ten pounds. Caruso could frequently twist, stoop, crouch, squat and climb stairs but should never climb ladders.

A May 14, 2012, note which Dr. Kutz attached to his report indicates Caruso sustained a work injury to her right wrist on February 23, 2011, and an injury to her left wrist on December 10, 2011, which he characterized as "tear of the FCR." Dr. Kutz indicated Caruso had undergone surgery on December 19, 2011. He noted x-rays revealed a distance between the scaphoid and lunate with apparent rupture of the scapholunate ligament. Dr. Kutz indicated Caruso needed to think about the options of surgery or decide whether this is her "final situation." She was to return and make a decision as to how she wanted to proceed.

The October 10, 2012, report of Dr. Wagner reflects he conducted an interview with Caruso, reviewed the work status and physical capability report of Dr. Kutz, and administered various tests. He concluded Caruso was limited to sedentary work as it pertained to the physical demands of lifting and carrying. Caruso was not capable of performing the work at Tractor Supply or as a horse

trainer. With her medical restrictions, Caruso was not able to engage in heavy, medium, and the majority of light work within the general economy. There remained a possibility she could perform sedentary work such as clerical and sales related. He believed Caruso suffered an "85% occupational market loss with these physical restrictions leaving approximately 15% for employment consideration." He identified the potential jobs as clerical in nature such as file clerk, desk clerk, inventory clerk, and receptionist. Caruso also had a possibility of employment in the sedentary market in sales such as telephone solicitation.

Regarding her psychological assessment, Dr. Wagner determined Caruso had a mood disorder due to general medical condition versus major depressive disorder. He concluded her mood disturbance was a direct result of her medical condition produced by the work injury. Utilizing the 2nd Edition of the AMA Guides, he determined Caruso had a Class III impairment which generated 25% permanent impairment rating.

The above medical evidence and Caruso's testimony constitute substantial evidence which supports the ALJ's determination of permanent total disability. We find no merit in Tractor Supply's argument that because Caruso was

working as a sitter for a student who had cerebral palsy and earning more than she may have made at Tractor Supply, the ALJ was precluded from finding Caruso is totally occupationally disabled. KRS 342.0011(11)(c) defines permanent total disability as follows:

> "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury....

However, in Ira A. Watson Department Store v. Hamilton, supra, the Supreme Court stated as follows:

> An analysis of the factors set forth in KRS 342.0011(11)(b), (11)(c), and (34) clearly requires an individualized determination of what the worker is and is not able to do after recovering from the work injury. Consistent with *Osborne v. Johnson*, *supra*, it necessarily includes a consideration of factors such as the worker's post-injury physical, emotional, intellectual, and vocational status and how those factors interact. It also includes a consideration of the likelihood that the particular worker would be able to find work consistently under normal employment conditions. A worker's ability to do so is affected by factors such as whether the individual will be able to work dependably and whether the worker's physical restrictions will interfere with vocational capabilities. The definition of "work" clearly contemplates that a worker is not required to be homebound in order to be

> found to be totally occupationally disabled. *See, Osborne v. Johnson, supra,* at 803.

Id. at 51.

The fact Caruso was working for a friend who had cerebral palsy does not preclude the ALJ from determining she is totally occupationally disabled. Tractor Supply fails to cite to Caruso's hearing testimony concerning the student's capabilities and that her job merely involved microwaving food, grocery shopping, and occasionally driving the student to town. The fact Caruso performed those chores does not prohibit the ALJ from finding Caruso would be unable "to find work consistently under normal employment conditions." As pointed out by the ALJ in his June 25, 2013, order, Caruso's job was "an unusual and limited employment situation" and she was performing this function for a friend. Thus, the ALJ did not err in determining such work did not constitute sustained employment in a competitive economy. In addition, Caruso testified this temporary work would end in May when the student completes her degree and returns to Louisville. As noted in Ira A. Watson Department Store v. Hamilton, supra, the determination is whether there is a likelihood Caruso would be able to find work consistently under normal employment conditions. The ALJ found this was not a normal

employment condition and we do not believe the facts compel a contrary finding.

Similarly, we find no merit in Tractor Supply's assertion the ALJ did not consider all of Caruso's vocational history and his opinion did not provide sufficient findings of fact in order to inform the parties of the basis for his determination Caruso is totally occupationally disabled. Although the ALJ could have provided further analysis, we believe his analysis comports with the requirements of Ira A. Watson Department Store v. Hamilton, supra. Here, the ALJ sufficiently considered Caruso's physical, emotional, intellectual, and vocational status and how those factors interacted. The ALJ specifically found Caruso has significant work restrictions and substantial physical and psychological impairment ratings. He found Dr. Kutz's restrictions to be compelling and precluded Caruso from performing almost any type of work in a competitive economy. After noting Caruso had a high school education and a work history involving lifting and heavy work, the ALJ cited to the fact Caruso wears wrist braces and is in constant pain which he found precluded her from doing any sedentary work. In light of this specific finding, we believe the ALJ considered the fact Caruso had performed sedentary work in the past for an

extended time which included her work at P & C Masonry and Illinois Bell. In his summary of the evidence, the ALJ specifically noted as follows:

> The Plaintiff testified that she has worked as a pet store employee, an information operator for the telephone company, a groomer, an equestrian sales person, a riding instructor, and that she performed payroll and administrative duties for a masonry company owned by her husband as vice president.

The above obviously denotes the ALJ was aware of Caruso's testimony regarding her work for P & C Masonry. As evidenced by his reference to Dr. Kutz's restrictions and the physical and psychological impairment ratings, the ALJ concluded Caruso is significantly psychologically and physically impaired. Relying upon Caruso's testimony she wears wrist braces and is in constant pain, and the opinions of Drs. Kutz and Morgan, the ALJ concluded Caruso is unable to perform sedentary work which clearly included the work she performed at P & C Masonry and Illinois Bell.

Authority has long acknowledged that in making a determination granting or denying an award of permanent total disability, an ALJ has wide ranging discretion. Colwell v. Dresser Instrument Div., 217 S.W.3d 213, 219 (Ky. 2006); Seventh Street Road Tobacco Warehouse v.

Stillwell, 550 S.W.2d 469 (Ky. 1976); Osborne v. Johnson, 432 S.W.2d 800 (Ky. 1968).

Further, a claimant's own testimony as to her capabilities and limitations may be relied upon by the fact-finder in making a determination as to her physical capacity to return to work following an injury. Hush v. Abrams, 584 S.W.2d 48 (Ky. 1979); Ruby Construction Company v. Curling, 451 S.W.2d 610 (Ky. 1970). So long as permanent impairment results from a work-related traumatic event, a claimant's testimony alone concerning her inability to provide services to another in return for remuneration on a regular and sustained basis in a competitive economy qualifies as substantial evidence sufficient to support a finding by an ALJ of permanent total disability. *See* KRS 342.0011(11)(c) *and* (34); Transportation Cabinet v. Poe, 69 S.W.3d 60 (Ky. 2001); Commonwealth of Kentucky, Transportation Cabinet v. Guffey, 42 S.W.3d 618 (Ky. 2001). Caruso's testimony regarding her physical capabilities supports the ALJ's determination she is incapable of performing even sedentary work. In addition, Caruso's testimony standing alone or in concert with the opinions of Dr. Kutz and Wagner support the determination of permanent total disability.

Relying upon both the medical and lay testimony, the ALJ concluded Caruso is totally occupationally disabled. That conclusion is supported by the record. The ALJ's reference to the impairment ratings, Dr. Kutz's restrictions, and Caruso's testimony she wears wrist braces and is in constant pain sufficiently informs the parties of the basis for his determination Caruso is totally occupationally disabled. In addition, the ALJ made a specific finding Caruso could not perform "even sedentary work" which evidences a consideration of Caruso's entire vocational history. As noted in Ira A. Watson Department Store v. Hamilton, supra, this Board is not to reweigh the evidence or substitute its judgment for that of the ALJ with regard to questions of fact. The determination of whether Caruso is permanently totally disabled is clearly a question of fact. Because the ALJ identified the medical evidence and the testimony of Caruso upon which he relied, we are unable to set aside his determination.

Finally, although Tractor Supply complains of the sufficiency of the ALJ's fact-finding, we note in its petition for reconsideration it did not request additional findings of fact regarding the ALJ's determination Caruso is totally occupationally disabled. Rather, it re-argued the evidence, asserting the record did not support a

finding Caruso is totally occupationally disabled and requested the ALJ reconsider his decision. Tractor Supply did not maintain the ALJ failed to make sufficient findings of fact in support of his decision Caruso is totally occupationally disabled. In addition, after rendition of the June 25, 2013, order ruling on Tractor Supply's petition for reconsideration, Tractor Supply did not file a petition for reconsideration requesting additional findings of fact as to any issue raised in its petition for reconsideration. Therefore, Tractor Supply's argument the ALJ did not provide sufficient findings of fact in order to inform the parties of the basis for his determination Caruso is totally occupationally disabled was not preserved for our review.

Accordingly, the May 28, 2013, opinion and award and the June 25, 2013, order ruling on the parties' petitions for reconsideration are **AFFIRMED**.

ALL CONCUR.

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