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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of MARIA HANSEN, Claimant,

v.

SAKS FIFTH AVENUE, Respondent,

WORKERS' COMPENSATION BOARD, Respondent.

December 8, 2016

Facts: The claimant worked as a cash auditor for 14 years. She resigned from her employment in May, 2013 and in March, 2014 filed a claim alleging bilateral carpal tunnel syndrome as a result of her job duties. The first time the claimant sought medical treatment appears to be March 17, 2014. The Workers' Compensation Board established the case for an occupational disease and awarded benefits. The employer and carrier appealed.

Holding: *Affirmed*, without costs.

Discussion: It does not appear as though the issue of entitlement to awards was addressed even though the claimant resigned from her employment for reasons unrelated to her carpal tunnel syndrome 10 months prior to being diagnosed. The issue discussed was the sufficiency of the evidence. The Court noted that the “[c]laimant bore the burden of establishing, by competent medical evidence, that a causal connection existed between [her injury] and [her] employment” and that the medical proof “must signify a probability as to the underlying cause of the claimant's injury which is supported by a rational basis.” The claimant testified regarding the repetitive nature of her job duties. Nerve Conduction tests were “suggestive of [a] clinical diagnosis of bilateral severe carpal tunnel syndrome [ ]” and both the claimant’s physician and the IME testified that claimant's injury could be related to her years of performing repetitive tasks at work. The Court noted that while the testimony arguably was equivocal and, as such, fell short of establishing the requisite causal connection between claimant's injury and her employment, the Board properly relied upon a supplemental report filed by the independent medical examiner in July 2014—

issued after he reviewed the results of the nerve conduction tests—wherein he acknowledged that claimant showed evidence of severe bilateral carpal tunnel syndrome and attributed the injury to the claimant’s work duties. The Court concluded that the Board’s determination was therefore supported by a rational basis in the record.

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