BRB No. 98-1503

FRANKLIN D. MARTIN	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
CONTRANS M & R SERVICES	)	DATE ISSUED: July 28, 1999
	)	
Self-Insured	)	
Employer-Respondent	)	DECISION and ORDER

Appeal of the Decision and Order -- Denying Benefits of Mollie W. Neal, Administrative Law Judge, United States Department of Labor.

Reuben E. Lawson, Baltimore, Maryland, for claimant.

F. Nash Bilisoly and Kelly O. Stokes (Vandeventer Black, L.L.P.), Norfolk, Virginia, for self-insured employer.

Before: HALL, Chief Administrative Appeals Judge, McGRANERY, Administrative Appeals Judge, and NELSON, Acting Administrative Appeals Judge.

PER CURIAM:

Claimant appeals the Decision and Order -- Denying Benefits (93-LHC-3347) of Administrative Law Judge Mollie W. Neal rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). We must affirm the findings of fact and conclusions of law of the administrative law judge if they are rational, supported by substantial evidence, and in accordance with law. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3).

While changing a tractor-trailer tire on April 12, 1991, claimant was struck on the tip of his right middle finger by a broken lug nut. Claimant testified that, although he was wearing gloves at the time of this incident, he experienced pain radiating from his right hand to his neck, and that he immediately sought medical attention for his hand. Thereafter,

claimant, who did not return to work following this incident, continued to complain of and seek treatment for discomfort in his right hand, arm, and shoulder. In June 1992, claimant was hospitalized due in part to excessive weakness, was subsequently diagnosed as having contracted either syringomyelia or ascending myelitis, and was soon confined to a wheelchair. Although claimant's condition initially worsened, it suddenly and dramatically improved to the point that claimant could stand by December 1992, and nominally walk by March 1993. Employer voluntarily paid temporary total disability and medical benefits from April 12, 1991 through July 5, 1993. 33 U.S.C. §§908(b), 907. Claimant, who remains unable to return to gainful employment, sought continuing total disability compensation from July 6, 1993, due to the neurologic quadiparesis which he asserts developed as a result of the injury to his right middle finger on April 12, 1991.

In his Decision and Order, the administrative law judge, determined that claimant was entitled to invocation of the Section 20(a), 33 U.S.C. §920(a), presumption and found that employer produced substantial evidence to rebut the presumption linking claimant's condition to the work accident. Next, after considering the totality of the evidence, the administrative law judge concluded that claimant's present medical condition is not causally related to his April 12, 1991, work injury. Accordingly, the administrative law judge denied claimant benefits under the Act.

On appeal, claimant challenges the denial of benefits. Employer responds, urging affirmance.

In the instant case, the administrative law judge properly invoked the Section 20(a) presumption as he found that claimant suffered a harm and that an accident occurred which could have caused that harm. *See generally Merrill v. Todd Pacific Shipyards Corp.*, 25 BRBS 140 (1991). Upon invocation of the presumption, the burden shifts to employer to present specific and comprehensive evidence sufficient to sever the causal connection between the injury and the employment, and therefore, to rebut the presumption with substantial evidence that claimant's condition was not caused or aggravated by his employment. *Swinton v. J. Frank Kelly, Inc.*, 554 F.2d 1075, 4 BRBS 466 (D.C. Cir.), *cert. denied*, 429 U.S. 820 (1976); *Devine v. Atlantic Container Lines, G.I.E.*, 23 BRBS 279 (1990). The opinion of a physician that no relationship exists between an injury and a claimant's employment is sufficient to rebut the presumption. *See Kier v. Bethlehem Steel Corp.*, 16 BRBS 128 (1984). If the administrative law judge finds that the Section 20(a) presumption is rebutted, the administrative law judge must weigh all of the evidence contained in the record and resolve the causation issue based on the record as a whole. *See Hughes v. Bethlehem Steel Corp.*, 17 BRBS 153 (1985)*; see also Director, OWCP v. Greenwich Collieries*, 512 U.S. 267, 28 BRBS 43 (CRT) (1994).

In finding that employer rebutted the presumption, the administrative law judge relied

upon the opinions of Drs. Layne, Davis, and Gauhar. In challenging the administrative law judge's decision, claimant asserts that because Drs. Layne, Davis, and Gauhar cannot definitively explain the etiology of claimant's present quadriparesis, their opinions cannot be relied upon to establish that his present medical condition is unrelated to his April 12, 1991, work injury. We disagree. Contrary to claimant's contention, proof of another agency of causation is not necessary to establish rebuttal of the Section 20(a) presumption. *See Todd Pacific Shipyards v. Stevens*, 722 F.2d 747 (9th Cir. 1983), *cert. denied*, 467 U.S. 1243 (1984). In the instant case, Dr. Layne diagnosed claimant's present medical condition as a viral infection, specifically ascending myelitis (Guillian-Barre Syndrome), and stated that this condition is not related to claimant's April 12, 1991, work injury. *See* EX 7. Specifically, Dr. Layne stated that "I just cannot imagine that an injury to the arm makes any difference in the susceptibility to any infectious disease nor that it could produce a severe central nervous system injury." *See* Tr. at 176; EX 7 at 16, 17. As this medical opinion is sufficient to sever the causal link between claimant's April 12, 1991, work accident and his present medical condition, we affirm the administrative law judge's finding that the Section 20(a) presumption is rebutted.[1] *See generally Phillips v. Newport News Shipbuilding & Dry Dock Co.*, 22 BRBS 94 (1988).

Claimant also challenges the administrative law judge's finding that a causal relationship is not established based on the record as a whole; specifically, claimant assigns error to the administrative law judge's decision not to rely upon the testimony of Dr. Conway, his treating physician. After considering all of the medical evidence of record, the administrative law judge found that the opinions of Drs. Layne and Davis, both of whom are neurologists, were well-reasoned and documented and thus were entitled to greater weight when compared to the opinion of Dr. Conway, a general practitioner, who the administrative law judge found to be less qualified in the diagnosis of neurological injuries. *See* Decision and Order at 13. Accordingly, the administrative law judge found that claimant did not meet his burden of establishing that his current condition is related to his work injury.

It is well-established that an administrative law judge is entitled to weigh the medical evidence and to draw his own inferences therefrom and is not bound to accept the opinion or theory of any particular medical examiner. *See Todd Shipyards Corp. v. Donovan*, 300 F.2d 741 (5th Cir. 1962). In this case, the administrative law judge fully evaluated the relevant evidence, and his findings regarding the medical opinions are supported by the record. As the administrative law judge thus rationally discounted the opinion of claimant's treating

[1]Similarly, Drs. Davis and Gauhar opined that claimant's current medical condition is not related to his work accident. *See* EX 18; Tr. at 145-146.

physician that claimant's present medical condition is in fact related to his work injury, his determination that claimant failed to meet his burden in this case is affirmed. *Greenwich Collieries*, 512 U.S. at 267, 28 BRBS at 43 (CRT). We therefore affirm the administrative law judge's determination, based on the record as a whole, that claimant's present medical condition is not causally related to his April 12, 1991, work accident. *See, e.g., Rochester v. George Washington University*, 30 BRBS 233 (1997).

Accordingly, the administrative law judge's Decision and Order is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

MALCOLM D. NELSON, Acting
Administrative Appeals Judge