

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARSON TAHOE REGIONAL
HEALTHCARE; AND PUBLIC AGENCY
COMPENSATION TRUST,
Appellants,
vs.
LAURIE JAIN,
Respondent.

No. 54725

FILED

DEC 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Tracie K. Lindeman
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition for judicial review in a workers' compensation action. First Judicial District Court, Carson City; James Todd Russell, Judge.

Respondent Laurie Jain injured her left shoulder in the course of her employment with appellant Carson Tahoe Regional Healthcare. Jain underwent surgery for the shoulder, during which she received general anesthesia. After the surgery, Jain allegedly began having cardiac problems. The administrative workers' compensation process was subsequently initiated and an administrative appeals officer entered an order granting Jain a six-percent permanent partial disability award for cardiac arrhythmia resulting from an adverse reaction to the anesthesia administered during her workers' compensation-related shoulder surgery. Appellants petitioned the district court for judicial review, which was denied, and have now appealed.

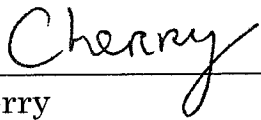
On appeal, appellants argue that the appeals officer's decision awarding the six-percent permanent partial disability award for the anesthesia-induced cardiac arrhythmia should be set aside because respondent failed to meet her burden of proof to establish her claim as the medical evidence she relied on to establish causation was too speculative.

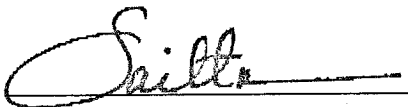
Appellants further argue that there is no medical evidence conclusively stating that Jain's condition is a permanent one. Jain disagrees.

Having reviewed the parties' briefs and the record on appeal, we conclude that appellants' arguments lack merit and that the appeals officer did not abuse her discretion in determining that Jain had established a compensable claim. See Grover C. Dils Med. Ctr. v. Menditto, 121 Nev. 278, 283, 112 P.3d 1093, 1097 (2005) (explaining that administrative decisions are reviewed by this court for clear error or an abuse of discretion); Ayala v. Caesars Palace, 119 Nev. 232, 235, 71 P.3d 490, 491 (2003) (stating that an agency's conclusions of law that are necessarily closely related to its view of the facts will not be set aside if supported by substantial evidence), rejected on other grounds by Five Star Capitol Corp. v. Ruby, 124 Nev. 1048, 194 P.3d 709 (2008). Here, the record contains a report provided by Gene Chang, M.D., an assistant professor of medicine at an Ivy League medical school, concluding that the temporal relationship between Jain's symptoms and the surgery suggested that the symptoms were triggered by the surgery and that he could not be certain that Jain's symptoms would ever disappear. This physician testimony satisfies Nevada's requirement that such testimony state to a reasonable degree of medical probability that the condition in question was caused by employment and establishes permanency. See United Exposition Service Co. v. SIIS, 109 Nev. 421, 424-25, 851 P.2d 423, 425 (1993) (explaining that an award of compensation cannot be based solely on possibilities and speculation but instead must be supported by testimony stated to a reasonable degree of medical probability). Further, while the record contains contrary testimony asserting that Jain's condition is not related to her workplace injury, this court will not

substitute its judgment for that of the appeals officer by reweighing the evidence. Construction Indus. v. Chalue, 119 Nev. 348, 352, 74 P.3d 595, 597 (2003). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. James Todd Russell, District Judge
David Wasick, Settlement Judge
Thorndal Armstrong Delk Balkenbush & Eisinger/Reno
Nevada Attorney for Injured Workers/Carson City
Carson City Clerk