

IN THE SUPREME COURT OF THE STATE OF NEVADA

YAVUZ ERDUN,
Appellant,
vs.
BALLY TECHNOLOGIES; AND
CANNON COCHRAN MANAGEMENT
SERVICES, INC.,
Respondents.

No. 58902

FILED

NOV 20 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order denying a petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Appellant Yavuz Erdun sustained an injury while working for respondent Bally Technologies. Erdun filed a workers' compensation claim that was originally accepted for a left shoulder injury and subsequently expanded to include his cervical spine. Erdun then sought to expand the claim again to include neurological complaints. The request was denied and Erdun administratively appealed the decision. The appeals officer issued an interim order directing Erdun to be examined by a neurologist to determine what symptoms Erdun suffered and whether such symptoms were causally connected to his industrial accident.


In response to the appeals officer's order, Dr. Christopher Danner performed the neurological examination on Erdun and provided three separate reports. In his initial reports dated April 14, 2010, and April 29, 2010, Dr. Danner ruled out organic causes and diagnosed Erdun

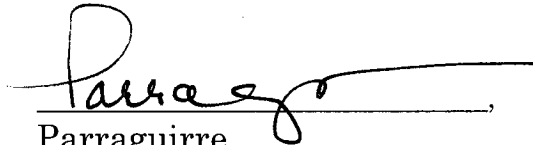
with subjective tinnitus and dizziness, but he failed to determine whether the problems were related to Erdun's injury. On June 13, 2010, Dr. Danner prepared his final report. In response to questions contained in the appeals officer's order, Dr. Danner opined that it was within medical probability that Erdun's neurological problems were related to his industrial injury.

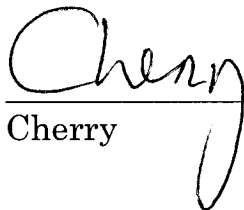
The appeals officer ultimately denied Erdun's request to expand his workers' compensation claim to include his neurological symptoms. The appeals officer relied on Dr. Danner's April 29, 2010, report, characterizing it as relating Erdun's symptoms to migraine headaches. But she failed to address or discuss the June 13, 2010, report where Dr. Danner specifically related Erdun's symptoms within medical probability to his industrial injury.

"[W]e review an appeals officer's decision in a workers' compensation matter for clear error or an abuse of discretion." *Vredenburg v. Sedgwick CMS*, 124 Nev. 553, 557, 188 P.3d 1084, 1087 (2008); see NRS 233B.135(3). Here, the appeals officer's failure to address Dr. Danner's June 13, 2010, report constituted an abuse of discretion. We therefore reverse the district court's order denying judicial review, and we remand this matter with instructions that the district court, in turn, remand the matter to the appeals officer for consideration of Dr. Danner's June 13, 2010, report.

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Jessie Elizabeth Walsh, District Judge
Law Office of Daniel S. Simon
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Eighth District Court Clerk