CASE NO. 5766 CRB-7-12-7 : COMPENSATION REVIEW BOARD
CLAIM NO. 700148088

DAVID R. RITCH
CLAIMANT-APPELLANT : WORKERS' COMPENSATION COMMISSION

v.

: OCTOBER 24, 2013

CONNECTICUT MATERIALS TESTING LABS
EMPLOYER

and

THE HARTFORD INSURANCE COMPANY
INSURER
RESPONDENTS-APPELLEES

APPEARANCES:

The claimant was represented by Christina Hanna, Esq., The Berkowitz Law Firm, 1010 Washington Boulevard, Ninth Floor, Stamford, CT 06901.

The respondents were represented by Laurence P. McLoughlin, Esq., Law Offices of David J. Mathis, 55 Farmington Avenue, Suite 500, Hartford, CT 06105.

This Petition for Review[1] from the June 18, 2012 Finding and Dismissal of the Commissioner acting for the Seventh District was heard April 26, 2013 before a Compensation Review Board panel consisting of the Commission Chairman John A. Mastropietro and Commissioners Charles F. Senich and Peter C. Mlynarczyk.

[1] We note that a postponement and extensions of time were granted during the pendency of this appeal.

OPINION

JOHN A. MASTROPIETRO, CHAIRMAN. The claimant in this matter has appealed from a Finding and Dismissal issued by the trial commissioner. This decision determined that while the claimant's knee injury was compensable, his back injury was not compensable. The trial commissioner also rejected the claimant's bid for temporary total disability benefits as she found the claimant had a work capacity. The claimant's bid to sanction the respondent was also denied. Upon review we find no meritorious argument that the commissioner erred in her determination of the disability and sanctions issues. We, on the other hand, question a portion of the manner in which the trial commissioner framed her analysis of the claimant's bid to find his back injury compensable. After reviewing the facts and the law herein, we conclude that we must extend deference to the finder of fact on issues where the claimant's credibility is properly challenged. In order to reverse the commissioner's decision our panel must determine that "the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." Moutinho v. Planning & Zoning Commission, 278 Conn. 660, 666 (2006); and as we conclude that threshold was not reached, we must affirm the Finding and Dismissal.

The trial commissioner reached the following factual findings at the conclusion of the formal hearing which are relevant to our inquiry. On January 14, 2008 the claimant was employed by the respondent as a senior field technician and on that day he was at work inspecting a worksite when he fell into a manhole after stepping on a loose cover. The claimant was taken by ambulance to Norwalk Hospital emergency department where

he was examined and x-rayed and diagnosed with left knee internal derangement. He was told that none of his bones were broken in his left leg. He was given a hip to ankle brace, a prescription for physical therapy and an appointment to see a doctor the next day. The hospital gave him an out-of-work note at discharge. He presented at an orthopedist, Dr. Kevin Plancher, on January 26, 2008, who summarized the mechanism of injury as follows, "[h]e fell into a manhole, sustaining a flexion injury [to his left knee]." Findings, ¶ 7. A February 18, 2008 "Physical Therapy Initial Consultation" from Performance Physical Therapy and signed by Brian Koczeansz, DPT described the mechanism of the claimant's injury as follows: "He apparently fell into a manhole with his left leg fully flexed at the knee…as he stepped on the cover, it (the manhole cover) rotated, caught his toes which put him into a flexed position at the knee and [he] went knee first into the hole." Findings, ¶ 8.

Dr. Plancher declared the claimant out of work due to his knee injury and subsequently performed surgery to repair a meniscal tear. The claimant returned to work in May of 2008 and reached maximum medical improvement in December 2008 with a 3% permanent partial disability to his left knee. Although the claimant states that he complained "some" to Dr. Plancher about his back during the period he treated for his knee (September 28, 2011 Transcript, pp. 54-55), the claimant sought no further medical treatment between December 2008 and June 2009. The claimant denied any back injury either prior to January 14, 2008 or subsequent to that date. He did not seek additional treatment from Dr. Plancher after December 2008 until June 19, 2009. At that time, his complaints to Dr. Plancher were of locking and cramping in the posterior knee with worsening of pain and swelling. Dr. Plancher ordered a new MRI which revealed a

peripheral tear in the body of the medial meniscus, a medial plica, a grade I chrondomalacia of the patellafemoral joint and the tibial plateau, minimal joint effusion and a Baker's cyst. Dr. Plancher recommended arthroscopic surgery of the left knee and an MRI of the low back due to the pain in the upper thigh near the top of the knee cap. Surgery was authorized by the respondents and performed by Dr. Plancher. The claimant was subsequently released for full duty work on January 22, 2010 and placed at maximum medical improvement on September 27, 2010 for the left knee.

On August 13, 2009 an MRI of the claimant's low back revealed mild hypoplasia of the L5 body posteriorly and a bilateral pars fracture of the L5 without spondylolisthesis and a central L4-5 disc protrusion. On September 17, 2009 some 19 months post-injury, the claimant began treating with Dr. Khalid M. Abbed for low back pain. Dr. Abbed has suggested surgery on the claimant's back but the respondents have contested any link to the compensable 2008 injury. The claimant testified that Dr. Added had disabled him from work, but the record indicated the only physical limitation placed on the claimant by this physician involved sexual relations . Findings, ¶ 19. Dr. Abbed's initial notes upon treating the claimant stated he "presents with severe low back pain and left lower extremity pain." Findings, ¶ 37. It further stated, "He states that these symptoms began about a year and eight months ago after he fell in a manhole. Six months after falling into a manhole, after extensive rehabilitation, he began to feel somewhat better, but the pain never went away. Over the past 7 to 8 months, his symptoms have worsened progressively and are now significantly affecting his quality of life." Id. On November 13, 2009 Dr. Plancher noted that the claimant was doing well with his knee but "the radiculopathy from his lumbar spine issues are providing him

discomfort. He is seeing Dr. Abbed regarding the lumbar spine." Findings, ¶ 38. On November 25, 2009 Dr. Abbed wrote to the claimant's attorney and noted that while "without films prior to the injury there is no way to state with 100% accuracy that the fractures were caused by the fall at work" that "given his history of the recent fall and acute onset of back pain is more likely than not that these fractures were caused by the fall and contribute to his symptoms." Findings, ¶ 39. The claimant continued to treat with Dr. Abbed and on June 3, 2010 Dr. Abbed issued a follow-up note that said the claimant continues to have a progressive decline in worsening of symptoms and the claimant needed an L4-S1 decompression and stabilization procedure.

The claimant was examined by an expert witness for the respondents, Dr. Robert V. Dawe, on March 8, 2010. Dr. Dawe suggested after the examination that conservative therapy would be a more prudent response to the claimant's back issues than surgery, in part as the claimant was a smoker. Dr. Dawe also discussed the possible etiology of the claimant's back injury in a letter to the insurance carrier. The claimant insisted that he had complained about his back pain and this was documented in Dr. Plancher's notes. Dr. Dawe wrote that "if in fact such records do exist then they would support the fact that the patient aggravated a preexisting condition of chronic pars defect at L5-S1 when he stepped into the manhole. If such record[s] do not exist then it becomes difficult to determine whether or not there is in fact a causal relationship since there is no evidence to support temporal complaint." Findings, ¶ 45. The claimant also underwent a commissioner's examination on July 20, 1010 before Dr. John G. Strugar. Dr. Strugar stated at that time the claimant presented with "what appears to be a work-related injury" and a "pre-existing pars defect condition" which was exacerbated by the events of

January 14, 2008 and which have now become very symptomatic. Findings, ¶ 49. Dr. Strugar did not believe the claimant has a work capacity as of the date of his examination, however, he believes that with surgical treatment the claimant might resume a light-duty work capacity. He recommends surgery if the epidural injections do not work.

The trial commissioner noted that evidence was presented on the issue of the claimant's work capacity. The claimant testified that his wife and children were responsible for doing almost everything around the house and he was unable to play with his kids or assist in their athletic activities. He did acknowledge he continues to drive. The respondents however, presented extensive video surveillance, corroborated by testimony from investigators, of the claimant's activities at "The Office Café," a gentleman's nightclub, where the claimant said he visited three to five nights a week. This evidence showed the claimant carrying a case of beer into the bar, cleaning up at the bar, manning the door and otherwise performing the duties of a bar bouncer with no apparent limitations or discomfort. The claimant admitted that he played pool at this bar, checked I.D.'s, collected cover charges and escorted dancers to their cars at the end of the night. He denied he received any monetary compensation for his activities, but admitted that he was given free drinks, access to the club without a cover charge, and had use of the pool table and dart boards. He did testify that he was captain of the pool team and the dart club at the The Office Café, and that the team traveled to other bars for competitions. Two witnesses, James Calvin Sprenkle and Gene Morrell, testified on the claimant's behalf as to his activities at the The Office Café. They denied the claimant was paid for his activities and said the claimant was providing a favor to Mr. Morrell, the venue's owner.

The trial commissioner noted that both Dr. Dawe and Dr. Strugar were deposed. Dr. Strugar testified that his opinion was reliant on the medical history of the claimant's orthopedic surgeon and the claimant's representations. Dr. Strugar notes that there is a stark contrast between the documentation of back pain in Dr. Plancher's notes from those in Dr. Abbed's notes. When the claimant presented to Dr. Plancher, he simply complained of minimal back pain, however, by the time he reached Dr. Abbed's office he was complaining of a "severe amount of back pain." Findings, ¶ 54. Dr. Strugar was not aware that there was a significant gap in treatment from December 2008 through June of 2009. He sees, however, that the claimant was complaining of a significant up-take in pain by June of 2009 with no evidence of any intervening event to explain the increased pain. Dr. Strugar opined that the claimant had enough conservative treatment to warrant surgery, but also noted that if the claimant could undertake normal activities without excessive pain, surgery was not necessary. Dr. Stugar opined that the claimant's January 14, 2008 incident was the cause of his L4-L5 disc condition. Dr. Dawe's deposition testimony on September 12, 2011 reiterated his prior written opinions and he reiterated the claimant was not a surgical candidate in his opinion.

Based on those subordinate facts the trial commissioner concluded that the claimant did not suffer a back injury on January 14, 2008. She believed the mechanism of the injury the claimant sustained on that date would not have injured the claimant's back, as the accounts of the injury were that the claimant was only in the manhole up to his groin, and this would not have jarred his spine. She also noted that there were no reports of an injury to the claimant's back in the emergency room reports, or the initial reports of the claimant's orthopedist, Dr. Plancher. The commissioner also noted the

long period in which the claimant did not treat for any injury between December 2008 and June 2009 when the claimant presented to Dr. Plancher with new knee complaints. The claimant denied any subsequent injury but the commissioner deemed that "highly unlikely" and it "was more likely than not" the claimant sustained a new injury during this period of time. Conclusion, ¶ C. The commissioner concluded that the surveillance footage at the The Office Café, as corroborated by the witnesses who testified, demonstrated the claimant had a light to medium work capacity, and "[t]he person moving freely about the inside and the outside premises of The Office Café was not the same disabled individual described in various doctors' notes." Conclusion, ¶ D. The commissioner further concluded that the medical opinions of Drs. Strugar and Abbed were compromised by not viewing the surveillance footage, and by their reliance on the claimant's narrative. The commissioner noted there were no diagnostic reports of the claimant's spine predating the date of injury, and that the claimant's report of back pain in 2009 appeared inconsistent as between what was reported to Dr. Abbed and what was reported to Dr. Plancher. The commissioner concluded the claimant had not been truthful with his medical providers and that the claimant's activities at The Office Café were inconsistent with his testimony as to limitations in his activities of daily living.

As a result, the trial commissioner denied the claim for compensability of a low back injury. She granted a Form 36 dated December 23, 2010 as to a light to medium work capacity for the claimant. She also denied the claimant's bid to sanction the respondent. The claimant filed a Motion to Correct, seeking numerous corrections supportive of compensability of the back injury and finding the claimant lacked a work capacity. The trial commissioner granted only one correction, which was to correct a

typographical error. The claimant has pursued this instant appeal. His appeal is focused on three claims of error: that the evidence supported a finding of compensability of the lower back, that the Form 36 was improperly granted, and that the evidence supported a finding of undue delay on the part of the respondent warranting sanctions.

On appeal, we generally extend deference to the decisions made by the trial commissioner. "As with any discretionary action of the trial court, appellate review requires every reasonable presumption in favor of the action, and the ultimate issue for us is whether the trial court could have reasonably concluded as it did." Daniels v. Alander, 268 Conn. 320, 330 (2004). The Compensation Review Board cannot retry the facts of the case and may only overturn the findings of the trial commissioner if they are without evidentiary support, contrary to the law, or based on unreasonable or impermissible factual inferences. Kish v. Nursing and Home Care, Inc., 248 Conn. 379 (1999) and Fair v. People's Savings Bank, 207 Conn. 535, 539 (1988). In addition, the burden of proof in a workers' compensation claim for benefits rests with the claimant. Dengler v. Special Attention Health Services, Inc., 62 Conn. App. 440 (2001). We also note that in cases wherein causation of an injury is contested the trial commissioner's "findings of basic facts *and* his finding as to whether those facts support an inference that the plaintiff's injury arose from his employment are subject to a highly deferential standard of review." Blakeslee v. Platt Bros. & Co., 279 Conn. 239, 253-254 (2006). (Emphasis in the original.)

We may address two of the averments of error in an expeditious manner. The trial commissioner has a great deal of discretion as to an award of sanctions, Kuhar v. Frank Mercede & Sons, Inc., 5250 CRB-7-07-7 (July 11, 2008). In the present matter the

trial commissioner was not persuaded that the respondents conduct rose to a level of undue delay. Counsel for the respondent argues in their brief that once the claimant put an issue of compensability of a back injury before the tribunal that they promptly scheduled a respondent's medical examination with Dr. Dawe to evaluate the claimant. We are not persuaded that the trial commissioner abused her discretion in declining to award sanctions in this matter, especially as she found for the respondent's on the substantive issues presented herein. See Christy v. Ken's Beverage, Incorporated, 5157 CRB-8-06-11 (December 7, 2007).

The claimant challenges the trial commissioner's decision to approve the Form 36, as she found that the claimant had a work capacity. The claimant argues that the opinions of the medical witnesses as to the issue of work capacity should have been credited. The trial commissioner is not bound to accept the opinion of any witness he or she does not find persuasive. Tartagliano v. Dept. of Correction, 55 Conn. App. 190, 195 (1999), *cert. denied*, 251 Conn. 929 (1999). The commissioner in this matter was presented with a rather substantial amount of evidence from surveillance footage and testimony from the claimant's associates at The Office Café demonstrating the claimant was an active individual capable of performing a variety of tasks in a business environment. We find this case indistinguishable from Smith v. Federal Express Corp., 5405 CRB-7-08-12 (December 1, 2009) where the trial commissioner denied the claimant's bid for total disability benefits.

> The trial commissioner considered issues related to the claimant's son's business. The claimant's son operates a Taekwondo academy in Maryland. The claimant denies an ownership interest in the business, but testified that he went to the business three times a week to help out his son. He testified he drove to the

> business sometimes. The claimant testified that his involvement at the academy continued even when his son was unable to teach classes there, having been injured in a mugging in 2006. During this period when his son retained a woman named Faith Dortch to teach classes at the academy, the claimant continued to help out at the business, even putting on a uniform and showing prospective students around the facility. The claimant denied being the facility's bookkeeper, but admitted that he accepted customer checks for the business, and that phone calls for the business rolled over to his home telephone or cell phone. He also testified that he had traveled to Taekwondo tournaments in New Jersey.
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> The trial commissioner noted that the claimant had been filmed by surveillance cameras on four occasions in 2006 and 2007, and the tapes indicated the claimant was driving an SUV, sitting in an SUV and lifting carts and bags out of the SUV. The tapes indicated that on one occasion the claimant spent three hours at a YMCA where the claimant's son worked.

Id.

More recently, we affirmed a trial commissioner who relied on surveillance footage to determine a claimant had a work capacity in Clukey v. Century Pools, 5683 CRB-6-11-9 (August 22, 2012). In Clukey, the claimant argued that his presence at a construction site banging a cement mixer with a hammer and offering advice on mixing cement was social in nature. The trial commissioner rejected this characterization of the claimant's activities and found he had a work capacity. We affirmed that decision on appeal. "The trial commissioner, after evaluating the surveillance tape and the testimony of Mr. Spitko and Mr. Carpentier, could reasonably conclude the claimant had the ability to perform supervisory work on a construction site and indeed was doing such work. Such a conclusion would warrant granting the Form 36 and discontinuing benefits." Id.

We can find no discernable difference between the claimant's activities at The Office Café and that of the claimants in Smith, supra, and Clukey, supra. In all of these

cases the claimant testified he was not paid for his activities, but the evidence on the record clearly demonstrated activities at a place of business for which an individual would usually receive remuneration. The burden is on the claimant to demonstrate he is entitled to temporary total disability benefits, Hernandez v. American Truck Rental, 5083 CRB-7-06-4 (April 19, 2007). The probative evidence herein convinced the trial commissioner the claimant did not prove his case. We cannot reverse such a decision on appeal.

In addition, the trial commissioner found the claimant's activities at the venue were inconsistent with the manner in which he presented at his medical examinations. See Conclusion, ¶ D. The trial commissioner could therefore reasonably question whether the claimant was honest with his physicians in presenting his medical history or narrative. We have reviewed the narrative provided to the various expert witnesses and note the claimant makes no mention of any injuries predating the January 14, 2008 work related injury. In reviewing the transcript of the claimant's testimony, we note he testified to a number of motor vehicle accidents preceding that date wherein he testified he sustained "head and neck" injuries. He also testified to having sustained a "slip and fall" accident at one point in the past. September 28, 2011 Transcript, pp. 90-93. The commissioner noted that no documentary evidence as to the condition of the claimant's back prior to the 2008 incident was provided to the medical experts. Conclusion, ¶ E. We also note that the trial commissioner noted a long lapse in treatment between the claimant originally reaching maximum medical improvement for his knee ailments in December 2008, and subsequently stating in June 2009 that he had back pain. All these matters appear on the record, and would provide a reasonable person grounds to question

the claimant's position regarding the compensability or significance of his back condition.

On the other hand, a trial commissioner must not arrive at his or her decision based on "speculation and conjecture.'' DiNuzzo v. Dan Perkins Chevrolet Geo, Inc., 294 Conn. 132, 143 (2009). The claimant denied having sustained an injury subsequent to January 14, 2008 and no witness offered testimony that such an injury occurred. Nonetheless, the commissioner concluded "[i]t is more likely than not that the claimant suffered some sort of aggravation or injury to his left knee and to his pre-existing pars defect outside of his work place during this period of time." Conclusion, ¶ C. The commissioner also digressed from the evidence on the record in her finding that "[t]he mechanism of injury is such that an injury to the claimant's back was unlikely on January 14, 2010, as it would have been impossible for him to fall far enough into a manhole to strike his back or jar his spine." Conclusion, ¶ A. While the subordinate facts support the conclusion the claimant did not sustain a direct trauma to his back in the incident, rather that his leg was bent in some fashion, it does not appear from a review of the opinions of any of the expert witnesses that they based their opinion regarding causation on the belief the claimant did sustain a direct trauma to his back at that time.

In many ways this Finding and Dismissal is similar to the Finding which we found flawed in Morales v. FedEx Ground Package Systems, Inc., 5666 CRB-2-11-7 (July 6, 2012). We take this opportunity to reiterate commissioners should not include speculative conclusions in their Findings. In Morales, supra, the trial commissioner found "it improbable that the claimant's left knee was completely asymptomatic prior to the incident on August 21, 2008." Upon review we were unable to "find that any medical

expert or lay witness testified that the claimant was not 'completely asymptomatic' prior to the 2008 conveyer belt accident." Id. We concluded that "[w]ere this unsupported speculation by the trial commissioner the sole basis for the ultimate conclusions herein, this panel would be compelled to sustain the appeal. See McFarland v. Department of Developmental Services, 115 Conn. App. 306, 318-320 (2009)." Id. However, in our review of the finding in Morales we found the trial commissioner reached other findings that allowed us to "infer the trial commissioner was not persuaded by the claimant's narrative. The commissioner is entitled to make this determination and may find medical evidence dependent on the claimant's narrative unreliable. Abbotts v. Pace Motor Lines, Inc., 4974 CRB-4-05-7 (July 28, 2006), *aff'd*, 106 Conn. App. 436 (2008), *cert. denied*, 287 Conn. 910 (2008)." Id.

The claimant argues that since the medical opinions presented to the commissioner were supportive of finding his back injury was a compensable injury, the trial commissioner erred by not adopting their opinion. The Appellate Court opinion in Bode v. Connecticut Mason Contractors, The Learning Corridor, 130 Conn. App. 672 (2011) offers guidance on that issue. In that case the Appellate Court reversed the trial commissioner as it held "there was no basis reflected in the record for the commissioner to discount the August, 2004 vocational report or the July, 2008 vocational report, both of which were the results of evaluations that were more appropriately scheduled in conjunction with the April, 2005 date on which the plaintiff claimed benefits and were closer in time to the 2008 and 2009 hearing dates." Id., 684. The court cited Loring v. Planning & Zoning Commission, 287 Conn. 746, 759 (2008) for the proposition that

there "must be some basis in the record to support the [trier of fact's] conclusion that the evidence of the [expert witness] is unworthy of belief.'' Id., 685.

In this case, such evidence exists in the record and was cited by the trial commissioner. As noted, the surveillance videos from The Office Café, when compared with the claimant's self-professed physical limitations, led the trial commissioner to conclude that the claimant lacked credibility. See Findings, ¶¶ 20-35 and ¶ 52, and Conclusion, ¶ D. The trial commissioner also cited the lapse of time between the incident and the claimant presenting with back pain as cause for skepticism. See Findings, ¶¶ 13 and 16. She also cited the inconsistent reports as to the claimant's back pain between the various physicians. Conclusion, ¶ E.

We have previously noted that a trial commissioner is generally expected to place great weight on the medical opinions of a commissioner's examiner, and when he or she decides not to rely on such an opinion, a commissioner should explain why this opinion was not adopted. Madden v. Danbury Hospital, 5745 CRB-7-12-4 (April 22, 2013). The claimant argues the failure to credit Dr. Strugar's opinion on causation constitutes error. However, we find that the commissioner explained in detail her reasoning for discounting this opinion. See Findings, ¶¶ 53 and 56 and Conclusion, ¶¶ E-G. The trial commissioner concluded that Dr. Strugar's opinion was unreliable as the claimant had not presented him with credible information as to his medical condition. This places such an opinion in a light that, pursuant to the precedent in Abbotts, supra, a trial commissioner could properly discount the opinion.

The trial commissioner noted that the respondent's examiner, Dr. Dawe, made clear in his report and in his deposition that any opinion supportive of finding the

claimant's back problem related to the January 14, 2008 injury was reliant on contemporaneous documentation from a treating physician, noting he had not seen the notes of Dr. Plancher prior to his examination. Findings, ¶¶ 45 and 64.[2] The notes of Dr. Plancher and his associates during the period immediately subsequent to the January 14, 2008 incident do not contain any reference to the claimant sustaining a back injury. The January 25, 2008 and February 15, 2008 reports from Dr. Plancher states the claimant had "no back pain"; which was also documented in reports issued after June 13, 2008, August 20, 2008 and December 12, 2008 examinations. An August 25, 2009 report from Dr. Plancher states the claimant "denies any pain in his lower back, numbness or tingling." A September 21, 2009 report by Dr. Plancher noted that the claimant was considering surgery on his lower back, but subsequent treatment notes on January 27, 2010, February 2, 2010 and March 29, 2010 document that claimant representing he had "no back pain." Respondent's Exhibit 8. The documentation which the respondent's examiner believed was necessary to establish causation of a back injury therefore does not appear to be present.[3]

When viewed in its totality the claimant's bid to find his back ailment compensable does not appear materially different from a number of other recent cases before this tribunal where a trial commissioner did not find a claimant credible, and therefore deemed any medical opinion as to causation reliant on the claimant's narrative

[2] See Respondent's Exhibit 9 and Respondent's Exhibit 2, p. 11.

[3] The claimant corroborated that these medical reports did not document back pain, September 28, 2011 Transcript pp. 79-80 but then testified that those records had been revised at the direction of the insurance carrier to omit any mention of back pain. There is no corroborating evidence in the record for this allegation.

equally unreliable. See Abbotts, supra, Vaughan v. North Marine Group, 5695 CRB-4-11-11 (January 4, 2013); Anderson v. Target Capital Partners, 5615 CRB-6-10-12 (January 3, 2012); Nicotera v. Hartford, 5381 CRB-1-08-9 (September 2, 2009) and Do v. Danaher Tool Group, 5029 CRB-6-05-12 (November 28, 2006). As we pointed out in Anderson, supra, "[a] claimant's credibility also bears heavily on whether medical testimony reliant on his or her narrative is to be given weight by the trial commissioner. When a trial commissioner does not find the claimant credible, the commissioner is entitled to conclude any medical evidence which relied on the claimant's statements was also unreliable." Id. We have followed this rule even when a claimant argues his or her medical evidence was uncontroverted. See Do, supra, and Nicotera, supra.

We do not find the trial commissioner's digressions into speculation and conjecture was appropriate in this matter.[4] However, we find that it was unnecessary for the commissioner to state these concerns when she believed, based on the evidence in the record, that the claimant's theory of causation of his back injury was unpersuasive. Given the substantial support in the record for the trial commissioner questioning the claimant's credibility, we cannot on appeal determine that medical evidence reliant on the claimant's narrative should be now deemed probative. Therefore, we deem the inclusion of unsupported conclusions in the Finding and Dismissal harmless error. Peters v.

[4] Not every injury that a claimant suffers can be directly associated with a specific triggering event or disease. For example, see Torres v. New England Masonry Company, 5289 CRB-5-07-10 (January 6, 2009) where the medical opinions as to the claimant's avascular necrosis were that it was idiopathic; i.e., of undetermined causation. For that reason, we do not believe it was necessary for the trial commissioner to suggest an alternative cause for the claimant's back problem in this matter when she did not believe the claimant's narrative and the expert opinion offered no other specific alternative.

Corporate Air, Inc., 14 Conn. Workers' Comp. Rev. Op. 91, 1679 CRB-5-93-3 (May 19, 1995).

We find the trial commissioner's Finding and Dismissal was reasonable based on the evidentiary record presented to the trial commissioner and her evaluation of the credibility of the witnesses who presented evidence.[5] We affirm the Finding and Dismissal.

Commissioners Charles F. Senich and Peter C. Mlynarczyk concur in this opinion.

[5] The trial commissioner denied the claimant's Motion to Correct. We find no error. The trial commissioner is not required to grant corrections that essentially consist of the appellant's view of the facts. See D'Amico v. Dept. of Correction, 73 Conn. App. 718, 728 (2002), *cert. denied*, 262 Conn. 933 (2003) and Liano v. Bridgeport, 4934 CRB-4-05-4 (April 13, 2006). When a trial commissioner denies a Motion to Correct, we may properly infer that the commissioner did not find the evidence submitted probative or credible. Vitti v. Richards Conditioning Corp., 5247 CRB-7-07-7 (August 21, 2008).