CASE NO. 6365 CRB-5-19-12 CLAIM NO. 500169832	:	COMPENSATION REVIEW BOARD
CHARLES BALDINO CLAIMANT-APPELLEE	:	WORKERS' COMPENSATION COMMISSION
v.	:	APRIL 7, 2021
RONDO OF AMERICA, INC. EMPLOYER		
and		
CHUBB INSURANCE COMPANY INSURER RESPONDENTS-APPELLANTS		

APPEARANCES:

The claimant was represented by Justin A. Raymond, Esq., The Dodd Law Firm, L.L.C., Ten Corporate Center, 1781 Highland Avenue, Suite 105, Cheshire, CT 06410.

The respondents were represented by Tushar G. Shah, Esq., Montstream Law Group, L.L.P., P.O. Box 1087, Glastonbury, CT 06033.

This Petition for Review from the December 6, 2019 Finding and Decision by Charles F. Senich, the Commissioner acting for the Fifth District, was heard September 25, 2020 before a Compensation Review Board panel consisting of Commission Chairman Stephen M. Morelli and Commissioners Randy L. Cohen and William J. Watson III.[1]

[1] We note that a motion for extension of time and a motion for continuance were granted during the pendency of this appeal.

OPINION

STEPHEN M. MORELLI, CHAIRMAN. The respondents have petitioned for review from the December 6, 2019 Finding and Decision (finding) by Charles F. Senich, the Commissioner acting for the Fifth District (commissioner). We find no error and accordingly affirm the decision.

The commissioner identified as the issue for determination the compensability, pursuant to General Statutes § 31-275, of the claimant's back injury sustained as a result of repetitive trauma.[2] The commissioner, having found that the Workers' Compensation Commission had jurisdiction over the claim, made the following factual findings which are pertinent to our review. The claimant began his employment with the respondent on October 11, 1982. He was initially hired as a press helper and eventually became a "pressman" running the printing press. At his deposition, the claimant testified that setting up a printing job required repeatedly lifting and loading into the press stacks of paper weighing approximately thirty pounds each. The paper was transported on a manual pallet jack weighing "[p]robably about 1,000 pounds" when loaded with paper. Respondents' Exhibit 1, p. 27. At trial, the claimant testified that he was also required to fill five-gallon buckets with water and carry them thirty to thirty-five feet to the printing press. The claimant stated that he was "bending all day long" except for when he was at lunch or on a break. June 17, 2019 Transcript, p. 17.

[2] General Statutes § 31-275 (1) states: "'Arising out of and in the course of his employment' means an accidental injury happening to an employee or an occupational disease of an employee originating while the employee has been engaged in the line of the employee's duty in the business or affairs of the employer upon the employer's premises, or while engaged elsewhere upon the employer's business or affairs by the direction, express or implied, of the employer …."

The claimant has had problems and incidents involving his back over the years and has treated with doctors, chiropractors and physical therapists. On July 26, 2017, the claimant sought treatment with David L. Forshaw, M.D. In an office note dated August 30, 2017, Forshaw stated that the claimant:

> was inquiring whether his job which he describes to me as [a] heavy job, bending, twisting, lifting, and pushing pallets daily for 34 years contributed to his degenerative disease and his constellation of symptoms. I do believe that his work and repetitive trauma would be a substantial factor in his spinal degeneration and need for surgery. While there is no precipitating and discrete injury, he does have a heavy-duty job, and has had no other injuries or trauma.

Claimant's Exhibit A.

The claimant returned to Forshaw on May 22, 2019, continuing to complain of back symptoms and pain that "comes and goes." Id. In his office note of that date, Forshaw indicated that he had reviewed the February 8, 2019 addendum from Andrew E. Wakefield, M.D., the commissioner's examiner, wherein Wakefield stated that he did not "believe [the claimant's employment] was a substantial contributing factor to the patient's low back condition," Respondents' Exhibit 5, but, rather, opined that the condition was due to "the natural progression and degenerative nature of the lumbar spine." Id. Forshaw indicated that he disagreed with Wakefield's opinion, given that the claimant:

> has worked at the same job for 36 years, which requires extensive pushing, pulling, lifting and twisting. I think had he not been employed in this job for such an extended period of time, if he had [a] desk job, he would not be in my office now seeking surgical remediation for his lumbar spine complaints. While some of the condition is degenerative in nature, I think the workplace activities

> in the setting of repetitive mechanical trauma is a substantial contributing factor into his need for treatment to date.

Claimant's Exhibit A.

At his deposition on August 15, 2018, Forshaw reiterated his opinion that "[b]ased on what I have been told by the patient, his activities at work, I think, are a substantial factor." Respondents' Exhibit 2, p. 38. Forshaw also stated that "[i]t's not uncommon for someone who has a heavy-duty repetitive job to develop back pain and/or radicular symptoms." Id., 39.

On June 18, 2018, the claimant underwent a respondents' medical examination (RME) with Gerald J. Becker, M.D.[3] In his report, Becker stated that the claimant was active both at home and at work, in addition to being moderately obese and a cigarette smoker. Noting that obesity and smoking could also be considered "contributing factors with regard to risks for development of back pain and disc problems," Respondents' Exhibit 3, p. 3, Becker opined that "there is no conclusive evidence that his condition is work-related. I believe it is more likely due to activities of daily living and genetics." Id.

The claimant underwent a commissioner's examination with Wakefield on November 2, 2018. In his report, Wakefield stated that "I do not have a specific date or episode that in my opinion would make this a workers' comp injury," Respondents' Exhibit 4, p. 3, and that "without such an episode, I do not feel that this is a workers' comp injury." Id. At the request of the commissioner, Wakefield issued the February 8, 2019 addendum which was subsequently reviewed by Forshaw. As referenced previously herein, in that addendum, Wakefield opined that he did not believe the

[3] In Findings, ¶ 14, the commissioner referred to the date of the claimant's examination with Gerald J. Becker, M.D., as June 18, 2013. We deem this harmless scrivener's error. See D'Amico v. Dept. of Correction, 73 Conn. App. 718, 729 (2002), *cert. denied*, 262 Conn. 933 (2003).

claimant's employment was a substantial contributing factor to his low back condition but, rather, believed the claimant's low back symptoms were due to "the natural progression and degenerative nature of the lumbar spine." Respondents' Exhibit 5.

On the basis of the foregoing, the commissioner, having determined that the testimony offered by the claimant and by Forshaw was fully credible and persuasive, concluded that the claimant had sustained his burden of proof in establishing that he had sustained a repetitive trauma injury to his low back while in the course of his employment. In reaching this conclusion, the commissioner relied upon Forshaw's reports of August 30, 2017, and May 22, 2019, as well as the deposition testimony offered on August 15, 2018. The commissioner did not find the reports and opinions of Becker or Wakefield persuasive, stating that he had found "the opinions of the treating physician, Dr. Forshaw, to be more convincing and compelling than that of Dr. Wakefield due to Dr. Forshaw's familiarity with the claimant's work history, condition, and course of treatment." Conclusion, ¶ L. As such, the commissioner ordered the respondents to accept liability for the claimant's repetitive trauma low back injury and to authorize the claimant's treatment with Forshaw. The commissioner also ordered the respondents to pay for all reasonable and necessary medical treatment associated with the work-related back injury.

The respondents filed motions to correct and for articulation, both of which were denied in their entirety, and this appeal followed. In their appeal, the respondents contend that the commissioner's conclusion that Forshaw's opinion was more credible and persuasive than the opinions offered by either Becker or Wakefield was not supported by the evidence. The respondents also argue that the claimant did not satisfy

his burden of proof relative to whether his employment duties over the course of his career caused a compensable injury.

The standard of review we are obliged to apply to a trial commissioner's findings and legal conclusions is well-settled. "The trial commissioner's factual findings and conclusions must stand unless they are without evidence, contrary to law or based on unreasonable or impermissible factual inferences." Russo v. Hartford, 4769 CRB-1-04-1 (December 15, 2004), citing Fair v. People's Savings Bank, 207 Conn. 535, 539 (1988). Moreover, "[a]s 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." Burton v. Mottolese, 267 Conn. 1, 54 (2003), *quoting* Thalheim v. Greenwich, 256 Conn. 628, 656 (2001). Thus, "it is … immaterial that the facts permit the drawing of diverse inferences. The [commissioner] alone is charged with the duty of initially selecting the inference which seems most reasonable and his choice, if otherwise sustainable, may not be disturbed by a reviewing court." Fair v. People's Savings Bank, 207 Conn. 535, 540 (1988), *quoting* Del Vecchio v. Bowers, 296 U.S. 280, 287 (1935).

We begin our analysis with the respondents' claim of error relative to the commissioner's determination that Forshaw's opinion linking the claimant's back condition to his employment was more persuasive than the opinions advanced by Becker and Wakefield, which did not. In support of this claim of error, the respondents specifically challenge the commissioner's conclusions predicated on "Forshaw's familiarity with the claimant's work history, condition, and course of treatment," Conclusion, ¶ L, arguing that in fact, "Forshaw was only provided one piece of the puzzle

while both Dr. Becker and Dr. Wakefield had been provided all the pieces." Appellants' Brief, p. 16. The respondents assert that "Forshaw testified that he did not have any of the Claimant's past medical records or history when he rendered an opinion of causation." (Emphasis omitted.) Id. The respondents also contend that the information pertaining to the claimant's history and home life provided to Becker was more extensive than that provided to Forshaw, and both Becker and Wakefield were provided with the claimant's medical records and deposition transcript.

The respondents further point out that the claimant's medical history reflects a series of incidents commencing in December 2001 in which the claimant complained of back pain, none of which were reported to Forshaw by the claimant. The respondents note that on December 2, 2001, the claimant presented to the emergency department at St. Mary's Hospital with back pain after a lifting incident at work. On January 29, 2007, the claimant again experienced back pain following another lifting incident at work; the severity of the pain at that time was such that his coworkers found him on the floor unable to move and he was taken to the emergency department at Saint Mary's Hospital. See Respondents' Exhibits 6, 7; June 17, 2019 Transcript, p. 31.

The respondents also point to several incidents in which the claimant experienced back pain at home. On October 7, 2004, the claimant began treating with his primary care physician, Phillip A. Mongelluzzo, Jr., M.D., for back and shoulder pain which appeared to be secondary to gastrointestinal issues. On May 26, 2009, the claimant presented to Mongelluzzo complaining of back pain which had started as he was doing yard work. On October 7, 2009, the claimant again presented to Mongelluzzo complaining of back pain which had begun after a coughing incident the prior week.

Mongelluzzo also saw the claimant for complaints of back pain on January 8, 2016, and June 9, 2017. In addition, the claimant testified that he had experienced back pain after putting lawn chairs away in early 2017 and had presented to St. Mary's Hospital several years prior to 2018 for back pain which had occurred while he was simply walking around inside his house.

The respondents contend that Forshaw, at his deposition, indicated that had he "been made aware of the Claimant's specific injuries to his back in 2001, 2004, 2007, 2009, 2016, and 2017 … his opinion may have 'potentially' been different." (Emphasis omitted.) Appellants' Brief, p. 19, *quoting* Respondents' Exhibit 2, pp. 29, 33. The respondents also note that Forshaw was aware the claimant was a smoker, and commented in his July 26, 2017 report that smoking was "an independent risk factor for disc degeneration." (Emphasis omitted.) Id., 19-20, *quoting* Claimant's Exhibit A. It is the respondents' position, therefore, that because "Forshaw rendered his opinion without being made fully aware of ***any*** of the Claimant's prior instances of low back pain and treatment," (emphasis in the original), id., 20, the "Commissioner's reliance upon Dr. Forshaw's opinion as being more 'convincing and compelling' because of his familiarity with the Claimant's work history, condition, and course of treatment is unsupported and unfounded by the underlying facts of this claim." Id., *quoting* Conclusion, ¶ L.

We recognize that the evidentiary record indicates that the claimant attended only three office visits with Forshaw, on July 26, 2017; August 30, 2017; and May 22, 2019, respectively. Moreover, as the respondents point out, both Wakefield and Becker were provided with various medical reports as well as the transcript from the claimant's

deposition of May 24, 2018, prior to their examinations.[4] As such, in concluding that Forshaw's opinion was "more convincing and compelling than that of Dr. Wakefield due to Dr. Forshaw's familiarity with the claimant's work history, condition, and course of treatment," the commissioner may have been slightly overstating the extent of the professional relationship between Forshaw and the claimant. Conclusion, ¶ L. However, in light of the fact that the record reflects that the claimant had been referred to Forshaw by his treating physician and was contemplating surgery with Forshaw as the next step of his treatment, we would deem this statement harmless error at most.

We are also aware that the evidentiary record clearly demonstrates that the claimant's medical history was significant for recurring episodes of back pain. However, we are not persuaded that the commissioner was compelled to accept the theory advanced by the respondents that any of these events constituted a "prior discrete injury" such that the commissioner improperly concluded that the repetitive trauma associated with the claimant's employment responsibilities was a substantial contributing factor to his back condition. Appellants' Brief, p. 19.

For instance, the one-page St. Mary's emergency department physician report for the claimant's visit on December 2, 2001, simply indicates that the claimant had presented complaining of back pain which had begun four days earlier while the claimant was lifting a board. The evidentiary record contains no follow-up report detailing

[4] We find unpersuasive the respondents' argument that the commissioner's decision reflects the improper inference that Becker was never made aware of the claimant's job duties. Although the claimant did testify at trial that Becker "never asked me about work," June 17, 2019 Transcript, p. 34, the commissioner's findings specifically reference Becker's RME report of June 18, 2018, wherein the doctor stated that "[i]t appears that Mr. Baldino is active at home as well as at work." Findings, ¶ 15, *quoting* Respondents' Exhibit 3, p. 3. This report also states that the claimant attributed his back pain to "repetitive bending and lifting in the course of work duties. He indicates that he has been employed as a printer and has done a lot of bending, lifting, and twisting in the course of work duties." Id., 1.

objective radiographic findings or recommendations for additional treatment. The report for the January 29, 2007 emergency department visit occurring more than five years later notes that the claimant's "back went out" while he was loading paper at work and the "[patient] states he has had similar episodes of pain in the past." Respondents' Exhibit 6. At that time, the claimant was diagnosed with a lumbar strain and provided medication. Mongelluzzo's office note from the claimant's follow-up visit with him on January 31, 2007, states that the claimant's co-workers had to help him up from the floor and take him to the hospital; Mongelluzzo referred the claimant for chiropractic care, which the claimant reported he obtained.[5]

When the claimant presented to Mongelluzzo two years later on May 26, 2009, following the onset of back pain while doing yard work, Mongelluzzo noted that the claimant reported "aggravating factors include bending over and sitting for long periods of time. CB states that he has had this problem in the past." Respondents' Exhibit 7. Mongelluzzo diagnosed the claimant with "a palpable spasm," id., and provided him with medication. On October 7, 2009, the claimant presented to Mongelluzzo with back pain, this time caused by coughing; once again, Mongelluzzo diagnosed the claimant with a recurring muscle spasm and provided some different pain medications. On October 14, 2009, the claimant presented to Mongelluzzo for a blood pressure follow-up, at which time the doctor noted that the claimant reported that his "back pain [had] almost fully resolved." Id.

The next report from Mongelluzzo contained in the evidentiary record is for an office visit on January 8, 2016, when the claimant presented with back pain which the

[5] The chiropractic records do not appear to have been submitted into evidence.

doctor described as "severe and episodic for him." Id. The doctor prescribed muscle relaxers. In fact, it was not until the claimant's next visit to Mongelluzzo on June 9, 2017, when he was again complaining of back spasms, that Mongelluzzo, noting an "acute exacerbation" of the claimant's "chronic back pain issues," id., referred the claimant for an MRI.

An MRI taken on July 11, 2017, demonstrated "L3-L4 mild spondylolisthesis with a small to moderately large broad-based central to right paracentral disc herniation indenting the thecal sac and compressing the right L4 nerve root and causing mild central stenosis and moderate foraminal narrowing." Claimant's Exhibit C, p. 1. The MRI also indicated that "L4-L5 mild spondylosis is a moderately large bulging disc with superimposed central to right paracentral moderately large herniation with an extruded component extending inferiorly." Id., p. 2. At the claimant's follow-up visit with Mongelluzzo on July 18, 2017, the doctor noted that the claimant "[had] some significant pathology and will need [a] spinal specialist follow-up for consult." Respondents' Exhibit 7.

The foregoing recitation reflects that prior to the July 11, 2017 MRI, the record was devoid of any objective radiographic findings indicating the claimant had sustained a back injury. We would also note that in his report of July 26, 2017, Forshaw stated that the claimant was "suffering from longstanding mechanical and axial low back pain. He suffers from several flare-ups a year. They are becoming more frequent in incidence and longer duration." Claimant's Exhibit A. Forshaw further indicated that the claimant "always had some element of mild lower back pain between these episodes." Id. In addition, at deposition, Forshaw testified that he was aware the claimant "had a long

history of low-back issues" which were getting worse, and the claimant had previously treated with a chiropractor and therapist. Respondents' Exhibit 2, p. 15. Forshaw referred to these prior events as "episodes," which he noted the claimant was reporting as "occurring more frequently and more severe, lasting longer periods of time." Id. In light of these statements by Forshaw, we find unmeritorious the respondents' contention that "Forshaw rendered his opinion without being made fully aware of any of the Claimant's prior instances of low back pain and treatment." (Emphasis omitted.) Appellants' Brief, p. 20.

Moreover, although Forshaw agreed that Becker's RME report reflected that Becker had been provided more information relative to the claimant's home life than had been provided to him, Forshaw also testified that Becker's RME report indicated that the claimant had experienced "flare-ups or episodes of back pain which the patient did report to me on and off over the years …." Respondents' Exhibit 2, p. 36. The respondents point out that Forshaw agreed that Becker had been provided with additional background details relative to the claimant's history of back pain, and that "[m]ore information is always helpful." Id., 37. Forshaw also indicated that his opinion could "potentially" change if it were demonstrated that the claimant had sustained a prior discrete injury. Id., pp. 29, 33.

However, a review of the totality of Forshaw's testimony makes it quite clear that the additional information adduced at his deposition did not prompt him to qualify or recant his opinion relative to the role of the claimant's employment activities in causing his back condition. Similarly, as previously discussed herein, in a May 22, 2019 office note written some nine months after his deposition, Forshaw indicated that he

"respectfully [disagreed]" with Wakefield's opinion that the claimant's back condition was due to "the natural progression and degenerative nature of the lumbar spine." Claimant's Exhibit A.

The respondents in the present matter are propounding the theory that one or more of the occurrences of back pain experienced by the claimant since 2001 constituted discrete injuries for which the claimant should have placed the employer on notice. Given that he did not do so, "[t]he Claimant is attempting to 'resurrect' these prior claims by alleging repetitive trauma." Appellants' Brief, p. 34. The respondents further assert that the claimant failed to demonstrate his current back condition "arose out of and during the course of his employment," § 31-275 (1), given that there were significant gaps of time between the incidents of back pain and the record indicates that at least some of these events were triggered by non-work activities.[6] As such, the respondents argue that because "the claimant's medical history clearly reveals multiple discrete identifiable injuries which cannot qualify as repetitive trauma, the Claimant has failed in meeting his burden of proof in showing he has suffered from repetitive trauma as a result of his job duties." Appellants' Brief, p. 33.

We find these arguments unavailing. Having reviewed the evidentiary record in its entirety, we find it may be reasonably inferred that the commissioner, rather than viewing the prior incidents of back pain as discrete injuries, considered them to be

[6] Our Supreme Court has explained that in order to establish that an injury "arose out of and in the course of the employment," "[t]here must be a conjunction of the two requirements, 'in the course of the employment' and 'out of the employment' to permit compensation. The former relates to the time, place and circumstance of the accident, while the latter refers to the origin and cause of the accident." Stakonis v. United Advertising Corporation, 110 Conn. 384, 389 (1930). In addition, "[i]n order to come within the course of the employment, an injury must occur (a) within the period of the employment; (b) at a place where the employee may reasonably be; and (c) while he is reasonably fulfilling the duties of the employment or doing something incidental to it." Id.

symptoms of the ongoing degenerative process in the claimant's spine due to his employment activities over the course of his long career. His conclusions in this regard are clearly predicated on Forshaw's opinion and, as an appellate body, we can discern no reasonable basis for reversing his decision. "It is the quintessential function of the finder of fact to reject or accept evidence and to believe or disbelieve any expert testimony…. The trier may accept or reject, in whole or in part, the testimony of an expert." (Internal citations omitted.) Tartaglino v. Dept. of Correction, 55 Conn. App. 190, 195 (1999), *cert. denied*, 251 Conn. 929 (1999). Moreover, in view of these well-settled precepts, we do not believe that the commissioner was under any obligation to accept Wakefield's opinion on the basis of the respondents' theory that Wakefield was better acquainted with the claimant's job duties than Forshaw was.[7]

The respondents also claim as error the commissioner's failure to articulate his rationale for disregarding the opinion of his own examiner. The respondents point out that in Iannotti v. Amphenol/Spectra-Strip, 13 Conn. Workers' Comp. Rev. Op. 319, 1829 CRB-3-93-9 (April 25, 1995), *aff'd*, 40 Conn. App. 918 (1996) (per curiam), this board stated as follows:

> [W]hen a commissioner orders a medical examination, there is usually an expectation among the parties that said examination will provide strong guidance to the commissioner. Where a commissioner chooses not to adopt the diagnosis of the physician performing that examination, he or she should articulate the

[7] We would further note that Wakefield, in his November 20, 2018 report, stated: "I do not have a specific date or episode that in my opinion would make this a workers' comp injury, without such an episode, I do not feel that this is a workers' comp injury." Respondents' Exhibit 4. We find this statement somewhat perplexing, and it is possible that the commissioner's overall assessment of the expert opinions in this matter may have been affected by a comment which seems to reflect the misapprehension that repetitive trauma injuries cannot be found compensable. It may also be reasonably inferred that any concerns he may have had on this point were not alleviated by Wakefield's addendum of February 8, 2019, wherein the doctor noted that the claimant was alleging he had sustained a workers' compensation injury but "cannot relate any type of specific episode or event that occurred at that time but exacerbated or caused his back pain and leg pain." Respondents' Exhibit 5.

> reasons behind his or her decision to disregard the examiner's report. Although we do not find error in the commissioner's failure to explain his credibility determination in this particular case, we want to stress the importance of a commissioner-ordered medical examination and the need for a commissioner to explain his or her reasoning in not crediting the examiner's report.

Id.

We concede that the commissioner in the present matter did not explicitly state his rationale for favoring another doctor's opinion over the opinion offered by the commissioner's examiner.[8] However, in Mauriello v. Craftsmen Litho, 6256 CRB-5-18-3 (March 22, 2019), this board observed that our Appellate Court has held "that it was within a commissioner's discretion to disregard the conclusion of a commissioner's examiner when the record contains other medical opinions which are supportive of a different conclusion." Id., *citing* Tartaglino, supra, 195-196. See also Gillis v. White Oak Corp., 49 Conn. App. 630, 638, *cert. denied*, 247 Conn. 919 (1998). As such, we declined to find error in a matter in which the commissioner did not specifically articulate the reasons for disregarding the opinion of the commissioner's examiner.[9] Rather, as the respondents in the present matter acknowledge, we "indicated that the commissioner's conclusion was supported by [the RME doctor's] opinions and testimony and upheld the trial commissioner's findings." Appellants' Brief, p. 28.

The respondents distinguish Mauriello, supra, from the present matter on the basis that the instant commissioner's reliance upon Forshaw's opinion was erroneous. As we have explained herein, we are not persuaded by the respondents' arguments in this

[8] We do note that the record reflects that the commissioner's examiner in this matter was actually selected by a different commissioner.

[9] In Mauriello v. Craftsmen Litho, 6256 CRB-5-18-3 (March 22, 2019), the issue in dispute was whether the claimant's back injury which occurred in 1986 was the proximate cause of the claimant's need for a hip replacement in 2016.

regard. We therefore decline to hold that the commissioner's failure to articulate his reasons for disregarding Wakefield's opinion constituted error.[10]

Finally, we note that the claimant testified extensively, both at deposition and at trial, relative to his job duties over his career of nearly four decades and the degree to which those duties entailed repetitive lifting and bending. The commissioner specifically found the claimant's testimony credible and persuasive, which determination is practically impervious to reversal on review, given that assessing the credibility of witnesses is "uniquely and exclusively the province of the trial commissioner." Smith v. Salamander Designs, Ltd, 5205 CRB-1-07-3 (March 13, 2008), *citing* Berube v. Tim's Painting, 5068 CRB-3-06-3 (March 13, 2007).

Given that the claimant's testimony pertaining to his job responsibilities was deemed credible, we are not necessarily persuaded that the commissioner was required to rely upon any expert opinion for his conclusions. In Lee v. Standard Oil of Connecticut, Inc., 5284 CRB-7-07-10 (February 25, 2009), this board stated that:

> expert medical opinion is not necessary to show the causal connection between injury and work in cases in which the commissioner could have concluded that it was more likely that an injury occurred from the type of work in which the plaintiff was engaged than from some unknown cause…. Only when the theory of cause and effect showing the association between injury and work involves complex medical issues outside common knowledge and ordinary human experience must the commissioner turn to expert testimony to resolve such issues and to confirm by expert opinion the association between injury and work. (Internal citation omitted.)

Id., *quoting* Sprague v. Linden Tree Service, Inc., 80 Conn. App. 670, 676 (2003).

[10] The respondents have asserted that because it was the claimant's burden to establish that neither Becker nor Wakefield were cognizant of the claimant's employment activities, the claimant should have deposed both doctors. It is not within the purview of this board to evaluate a party's litigation strategy.

In light of these remarks by our Appellate Court, we question the extent to which the commissioner in the present matter required expert testimony in order to reasonably infer that a nearly forty-year career involving constant bending and lifting on a daily basis was a substantial contributing factor to the claimant's back condition.

There is no error; the December 6, 2019 Finding and Decision by Charles F. Senich, the Commissioner acting for the Fifth District, is accordingly affirmed. Insofar as any benefits due to the claimant may have remained unpaid during the pendency of this appeal, interest is awarded as required by General Statutes § 31-301c (b).[11]

Commissioners Randy L. Cohen and William J. Watson III concur in this Opinion.

[11] We note that in their Reasons of Appeal, the respondents claimed as error the commissioner's failure to grant their motion to correct or motion for articulation. With regard to the former, our review of the proposed corrections indicates that the respondents were merely reiterating the arguments made at trial which ultimately proved unavailing. As such, we find no error in the trier's decision to deny the respondents' motion to correct. D'Amico v. Dept. of Correction, 73 Conn. App. 718, 728 (2002), *cert. denied*, 262 Conn. 933 (2003). With regard to the latter, the respondents have requested that the commissioner further articulate "the exact basis" from which he concluded that Forshaw's opinion was more persuasive than that of Becker or Wakefield. December 20, 2019 Motion to Articulate, p. 2. We recognize that "[i]t is well established that [a]n articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification…." (Internal quotation marks omitted.) Breen v. Judge, 124 Conn. App. 147, 161 (2010). However, in light of the analysis set forth herein, we decline to find that the commissioner's denial of the motion to articulate constituted error.