CONCURRING OPINION OF ACOBA, J.

I do not fault the application by the Intermediate Court of Appeals (the ICA) of the Hawai i Revised Statutes (HRS) § 386-85(1) (1993) presumption[1] to this case because less than one year ago, this court said in no uncertain terms that we construe the use of the word any to mean that the presumption applies in all proceedings conducted pursuant to the workers compensation chapter. Korsak v. Hawai i Permanente Med. Group, 94 Hawai i 297, 306, 12 P.3d 1238, 1247 (2000) (emphasis added) (citation omitted). The proceedings in the instant case were undisputably conducted pursuant to the workers compensation chapter. Bound by Korsak, the ICA was required to apply it and the presumption in the case before it, as it did. See Tamashiro v. Control Specialists, Inc., No. 22569, slip op. at 18-19 (Haw. Ct. App. Apr. 24, 2001). What the decision adopted today does is to qualify the general proposition adopted in Korsak.

I view this decision as limited to the question of

> whether [Petitioner/Cross-Respondent-Appellant Neal M.] Tamashiro was able to resume work between August 4, 1994 and

---

[1] HRS § 386-85 states in pertinent part:

> In any proceeding for the enforcement of a claim for compensation under this chapter it shall be presumed, in the absence of substantial evidence to the contrary:
> (1) That the claim is for a covered work injury[.]

(Emphasis added.)

July 15, 1995. [2] Majority opinion at 10-11. I do not perceive that it otherwise limits the application of the HRS § 386-85(1) presumption, see Bocalbos v. Kapiolani Medical Center, 93 Hawai i 116, 129, 997 P.2d 42, 55 (App. 2000) (employer s obligation in event of work injury is to furnish to the employee all medical care, services, and supplies as the nature of the injury requires pursuant to HRS § 386-21 (emphasis omitted), and that under HRS § 386-24, medical services and supplies . . . shall include such services, aids, appliances, apparatus, and supplies as are reasonably needed for the employee s greatest possible medical rehabilitation (emphasis omitted)), or the reasonable

---

[2] In his opening appellate brief, Tamashiro objected primarily to the type of evidence considered, and argued that (1) although refuted by Tamashiro in a hearing held pursuant to HRS § 386-31(b) (1993), the labor and industrial relations appeals board (the Board) erroneously relied upon lay opinions and employer-provided witnesses giving non-medical evidence, and (2) the Board disregarded uncontroverted medical testimony that Tamashiro was unable to return to work. In his petition for writ of certiorari, Tamashiro relies upon HRS § 386-31(b) and argues that § 386-31 is based purely on medical determinations. According to him, eligibility for temporary total disability (TTD) benefits is statutorily mandated under a medical test, which Tamashiro defines as when treating doctors release the injured worker to return to regular duty or to light duty; or when the injured worker[s] condition(s) are stable. Termination of eligibility occurs where the employee s condition is stabilized. See HRS § 386-31(b)(1) (stating that where the director determines based upon a review of medical records and reports and other relevant documentary evidence that an injured employee s medical condition may be stabilized and the employee is unable to return to the employee s regular job). Thus, he argues that any non-medical evidence relied upon constitutes a violation of the statutory provisions and that the issue of [his] entitlement to TTD benefits under a medi[c]al test could only have been decided by medical experts evidence pursuant to § 386-31(b), HRS.

However, in citing to Tamashiro s opening appellate brief (Tamashiro contends that the Board reached an erroneous legal conclusion, majority opinion at 13), Tamashiro s argument on certiorari is recharacterized in the instant decision as an objection primarily to the weight and credibility accorded to certain testimony by the Board. Id. By this decision, it appears we have sub silentio determined that HRS § 386-31(b) is not applicable in this case.

doubt standard, see Chung v. Animal Clinic, Inc., 63 Haw. 642, 651, 636 P.2d 721, 727 (1981) (citing Akamine v. Hawaiian Packing & Crating Co., 53 Haw. 406, 409, 495 P.2d 1164, 1166 (1972)).