

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F214017

JERRY DOBBS	CLAIMANT
TEC THE EMPLOYMENT CO. INC.	RESPONDENT
LIBERTY MUTUAL INS. CO. INSURANCE CARRIER	RESPONDENT

OPINION FILED AUGUST 15, 2003

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Fort Smith, Sebastian County, Arkansas.

Claimant represented by LAWRENCE FITTING, Attorney, Fort Smith, Arkansas.

Respondents represented by JAMES ARNOLD, II, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

A hearing was held on July 17, 2003, in Fort Smith, Arkansas.

A pre-hearing conference was held in this claim, and as a result a pre-hearing order was entered in the claim on March 13, 2003. This pre-hearing order set forth the stipulations offered by the parties, the issues to litigate and the contentions thereto.

The following stipulations were submitted by the parties and are hereby accepted:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. On November 19, 2002, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to his right eye on November 19, 2002.

4. Temporary total disability has been paid to December 5, 2002.

5. The claimant is entitled to a weekly compensation rate of \$170.00.

By agreement of the parties the issues to litigate are limited to the following:

1. The claimant's entitlement to additional medical.
2. Attorney's fees.

In regard to the foregoing issues the claimant contends that he injured his right eye when several pieces of metal lodged in his eye from a hand grinder as a result of grinding steel tubes during the course of his employment with respondent. This required medical treatment and a period of temporary total disability. The claimant has been released with restrictions, including driving.

In regard to the foregoing issues the respondents contend that no benefits have been controverted except the claimant's entitlement to additional temporary total disability benefits. The respondents contend that the claimant refused an offer of light duty employment which was first made on November 26, 2002. Light duty work within the restrictions set forth by the claimant's treating physician has thereafter been available continuously to the claimant who has not availed himself of the offer. The respondents will contend that the issues of rehabilitation and PPD are premature.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No. 1. The claimant submitted documentary evidence marked Claimant's Exhibit No. 1. The respondents submitted documentary evidence

marked Respondents' Exhibit No. 1. All these documents were admitted without objection.

DISCUSSION

The claimant testified that while working for the respondent on November 19, 2002, he was using a grinder grinding out some barrels and a piece of metal flew into his eye. The claimant testified that the next day he was sent by the respondent to Cooper Clinic and the doctor took a piece of metal out of his eye. The claimant testified that for the next several days he was sent to different doctors and more metal was removed from his eye. The claimant testified that he has been sent to Tulsa and Little Rock to be seen by physicians for the treatment of his eye. The claimant agreed that all of his treatment was through the Cooper Clinic network.

The claimant testified that the vision in his right eye is so affected by this injury that he is not able to drive, he has problems with reading and gets migraine headaches. The claimant agreed that the last doctor which he was referred to was Dr. Mabrey who has recommended additional treatment and tests which have been refused by the respondents. The claimant testified that as far as pain he is a little better as to his right eye injury but that his vision is still consistently bothersome. The claimant testified that if there is anything medically that can be done to improve the problem with his right eye, he would like to have a chance to have it done.

The medical records set forth that the claimant was seen at the Cooper Clinic on November 20, 2002, with problems with his right eye. The notes indicate that Dr. Holder removed some metal but could not get all of it. It is noted that the claimant had a rust deposit of 2 percent to metallic FB and medications were prescribed for his discomfort. Dr. Christopher Greer writes on November 20, 2002, that he has seen the claimant at the request of Dr. Matthew Renner. Dr. Greer writes that upon examination, it was found that the claimant was highly photophobic and it was found that the claimant had a residual metallic rust ring in the superior temporal quadrant O.D. with some surrounding corneal edema. Dr. Greer notes that no conjunctival foreign bodies were detected and there was no evidence of a perforated glob. Dr. Greer writes that the macula and optic nerve appear to be relatively normal, although the macula had above average pigmentation. Dr. Greer writes that the claimant fully understands that these kind of injuries can result in permanent visual changes or loss. Dr. Greer writes on November 21, 2002, that he has seen the claimant for follow up to his acute iritis and corneal foreign body O.D. Dr. Greer writes that the claimant's residual rust ring was removed under topical antibiotic and the claimant reports that he is much improved and more comfortable than the day before. Dr. Greer notes that the claimant had a plus two conjunctival injection with trace flair and cell of the anterior chamber noting that he was less photophobic. Medications again were prescribed and the claimant was to return the next day. Dr. Renner writes on November 22, 2002, that the

claimant was seen and reports that he is still painful and his eye hurts when blinking, he had decreased vision and he has continued to use his medications. The medical records set forth that the claimant was seen on November 23, 24, 25, 26, 27, and 29 at Cooper Clinic. Dr. Greer writes on November 29, 2002, that the claimant's vision has stabilized at 20/70 and his corneal wound is significantly healing. Dr. Greer notes that there is a round stromal ring of scar tissue in the cornea but no active keratitis. The doctor notes that the anterior chamber was quiet, but the claimant does have plus one conjunctival injection and remains significantly photophobic. Dr. Greer writes that he kind of explained the claimant's decline in vision noting that the claimant does have some mild evidence of inflammation, however, his photosensitivity seems disproportionate. Dr. Greer opined that perhaps he was having a reaction to some of his topical medications and adjusted these medications. On December 2, 2002, Dr. Greer writes that the claimant's best corrected acuity remains at 20/80 and 20/70 respectively noting that the claimant has a history suggestive of amblyopia O.S. The doctor writes that the claimant has a ring opacity in the far peripheral O.D. and he remains photophobic. A corneal topography was performed and no significant abnormalities were detected. A referral was made for the claimant to a neuro-ophthalmology, Dr. Lawton, in Little Rock.

Dr. Andrew Lawton writes on December 9, 2002, that he has seen the claimant and found no organic cause for the claimant's decreased vision. Dr. Lawton does note that the claimant does have

a mild peripheral scar of his right cornea left over from the body that conceivably could be causing some glare. The claimant was referred to Dr. Mike Roberson for a corneal evaluation. Dr. Roberson writes on December 18, 2002, that in the temporal aspect of the claimant's right cornea there was a healed corneal foreign body scar but no inflammation or stain. Dr. Roberson notes that the claimant's eye exam was in the 20/100 range and he has no answer for the claimant's reduced vision and continued difficulty.

Dr. William Mabrey examined the claimant on March 4, 2003, and writes that he sees nothing to explain the claimant's decrease in vision in his right eye. Dr. Mabrey notes that the small flat nevus in the right eye would be unlikely to cause a decrease in vision and certainly would not be related to the metallic foreign body. The doctor writes that this does not look in any way like toxicity from retained metallic interocular foreign body. The doctor notes that there is no narrowing of the arterial tree and there is no pallor of the optic nerve, no defused pigmentary degeneration, no posterior segment inflammation and no change in the color of the claimant's iris. Dr. Mabrey writes that for the sake of thoroughness, he would consider it reasonable to get a fluorescein angiogram which has been arranged. Dr. Mabrey further recommends having a CT scan of the claimant's orbit of the right eye to look for interocular foreign bodies. The doctor notes that regarding the claimant's left eye it appears to be normal but does have a history of amblyopia.

Based upon the testimony as well as the medical evidence in this matter, I find that the claimant has proven by a preponderance of the evidence that he is entitled to the tests as recommended by Dr. William Mabrey. It is not questioned that this claimant injured his right eye while working for the respondent. Metal has been removed from his eye on more than one occasion and there is no indication that the claimant had vision problems with his right eye prior to his compensable injury. Although several of the doctors, including Dr. Mabrey, are at a loss to explain the claimant's ongoing current vision problems with his right eye they do recommend further testing to determine if the claimant is in need to additional treatment for his right eye. I, therefore, find that the claimant is entitled to undergo the tests as recommended by Dr. Mabrey and if these tests indicate that further treatment is necessary, the claimant should be allowed to receive the recommended treatment. If these tests are normal or do not reveal anything further which can be treated, active medical treatment should cease.

FINDINGS & CONCLUSIONS

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On November 19, 2002, the relationship of employee-employer-carrier existed between the parties.
3. The claimant sustained a compensable injury to his right eye on November 19, 2002.

4. Temporary total disability has been paid to December 5, 2002.

5. The claimant is entitled to a weekly compensation rate of \$170.00.

6. The claimant has proven by a preponderance of the evidence that he is entitled to the testing as recommended by Dr. Mabrey and, depending on the outcome of these tests, additional medical if appropriate for his compensable right eye injury. See discussion above.

ORDER

The claimant has proven by a preponderance of the evidence that he is entitled to the additional testing recommended by Dr. William Mabrey. If these tests reveal that the claimant would benefit from additional treatment, the respondents should also pay for this additional treatment for his compensable right eye injury.

IT IS SO ORDERED.

ELIZABETH DANIELSON
ADMINISTRATIVE LAW JUDGE