

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F300133

MELODY KUEHL

CLAIMANT

COOPER POWER SYSTEMS

RESPONDENT

CROCKETT ADJUSTMENT  
INSURANCE CARRIER

RESPONDENT

OPINION FILED AUGUST 15, 2003

Hearing before ADMINISTRATIVE LAW JUDGE MICHAEL L. ELLIG in Springdale, Washington County, Arkansas.

Claimant represented by JAY TOLLEY, Attorney, Fayetteville, Arkansas.

Respondents represented by DAVID WALL, Attorney, Fayetteville, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled claim on May 29, 2003, in Springdale, Arkansas.

A pre-hearing order was entered in the case on March 31, 2003. This pre-hearing order set forth the stipulations offered by the parties and outlined the issues to be litigated and resolved at the present time. Immediately prior to the hearing, the claimant withdrew the issue of her entitlement to temporary total disability benefits. A copy of this order with that amendment noted thereon was made Commission's Exhibit No. 1 to the hearing.

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

1. On all relevant dates prior to October 21, 2002, the relationship of employee-self insured employer-third party administrator extend between the parties.
2. The appropriate weekly compensation rates are \$232.00 for total disability and \$174.00 for permanent partial disability.
3. The claimant sustained a compensable injury to her wrists.
4. All medical expenses incurred for services rendered to the claimant for her compensable hand/wrist injuries by Dr. Gary Moffitt have or will be paid.

By agreement of the parties the issues to be litigated and resolved at the present time were limited to the following:

1. The claimant's entitlement to additional medical services at the respondent's expense.
2. Appropriate attorney's fees.

In regard to these issues, the claimant contends:

"Claimant was injured around July 2002 from repetitive motion of gripping a hammer, cts."

In regard to these issues, the respondents contend:

"That the claimant sustained a compensable injury to her wrist during July 2002. The respondents contend further that appropriate medical treatment has been afforded to the claimant and that additional medial treatment is not reasonable or necessary. The respondents contend the claimant reached maximum medical improvement on September 20, 2002."

#### DISCUSSION

The sole issue presented for resolution at the present time is the claimant's entitlement to additional medical services for her current hand/wrist difficulties at the respondents' expense. In order to be entitled to such benefits, the claimant must prove that the additional medical services that she now seeks represent reasonable and necessary medical services for her compensable hand/wrist injuries."

There is no doubt that the claimant sustained compensable injuries to both of her hands and wrists, while in the employ of this respondent in October 2000. It is further apparent that these compensable injuries were in the form of bilateral carpal tunnel syndrome.

The respondents provided the claimant with medical services for this compensable bilateral carpal tunnel syndrome by and at the direction of Dr. Gary Moffitt, a family practitioner. Dr. Moffitt treated the claimant conservatively with the use of oral medication

and a change in the claimant's employment duties. Dr. Moffitt continued to treat the claimant through September 20, 2002.

In his evaluation on September 20, 2002, Dr. Moffitt notes that the claimant reports that she is "much much better today." He notes that she relates that her left hand is totally back to normal with only minimal numbness and pain in her right hand (the claimant is left-handed). He noted that on his physical examination, the claimant exhibited no swelling or discoloration of either of her hands, that she had good grip in both hands, that Tinel's testing on the left was entirely negative, and Tinel's testing on the right was only "questionably positive." At that time, he released the claimant to return to full duty with no impairment.

In her initial testimony, the claimant disagrees with Dr. Moffitt's statements. She testified that her symptoms with her hands continued essentially unabated during his period of treatment and her lighter duty assignment provided her with little or no relief. She further testified that she was still experiencing these same difficulties with both hands, when she was released by Dr. Moffitt on September 20, 2002. On cross examination, she conceded that she experienced a brief temporary improvement in her symptoms, while on light duty.

The claimant admits that she did not complain of these continuing or worsening difficulties to the respondent after her release by Dr. Moffitt. The record reveals that she made no attempt to return to Dr. Moffitt or seek medical treatment elsewhere for any symptoms involving her hands and wrists during her continued period of employment with this respondent.

The claimant was terminated by the respondent for excessive absenteeism on October 2, 2002. The claimant agrees that the absences that lead to her termination were in no way related to her hand and wrist difficulties, but were due to non-employment related matters, such as illness of her children, the need to obtain dental work, etc.

The claimant testified that shortly after her termination she was able to obtain employment as a car hop at a Sonic drive in for approximately two weeks. On cross examination, the claimant also identified a position that she held for approximately one week at Specialty Fasteners, i.e. packing nails. Then, in November 2002, she obtained employment at Ozark Delights, a candy manufacturing company. She has continued to work at Ozark Delights through the date of hearing. The claimant's testimony indicates that her positions at Specialty Fasteners and Ozark Delights also require what would be considered as hand intensive activities.

The medical evidence shows that the claimant did not seek any further medical treatment, after her release by Dr. Moffitt, until she consulted the Northwest Medical Center on January 20, 2003. At that time, the claimant was apparently complaining of difficulties that only involved her left wrist and hand. The initial encounter record notes the following history of these difficulties:

“Left wrist pain onset two months ago worse today unable to work due to constant pain.” (Emphasis mine)

In the physician's notes, the following history is recorded:

“Complains of left wrist pain increase after started working at lollipop factory, (diagnosed) with carpal tunnel syndrome in the past with Cooper and with neuro nerve studies, no fever, chills, or sweats, no recent infections, no fall or new injury, improved between jobs but now worsened.”

The physical examination noted that the claimant's left upper extremity was neurovascularly intact, with tenderness to the ventral left wrist, and a positive Tinel's and Phalen's with range of motion percussion. Absolutely no complaints were noted nor any abnormalities observed involving the claimant's right upper extremity. The claimant was advised to rest her left wrist and hand, apply ice four times a day, wear her splint twenty-four hours a day, and refrain from lifting or repetitive motion for three days.

The claimant next sought the medical services of Dr. Peter R. Heinzelmann, an orthopedist, at the request of her attorney. Dr. Heinzelmann's initial report of February 6, 2003, records the following history:

"The patient states that she's had pain in both hands since August of last year. She also complains of intermittent numbness in her hands. She relates the onset of these symptoms to her work at that time in a tool manufacturing plant. She had worked there since January 2002. She has since left that job and now works for a candy making company. Curiously, Dr. Heinzelmann does not note that the claimant gave a history of her symptoms improving and then increasing following her employment with the candy making company."  
(Emphasis mine)

However, there is no indication that the claimant advised Dr. Heinzelmann that her symptoms only involved her left hand and wrist or that her symptoms had improved and then reappeared or worsened in November of 2002 (as she advised the physicians at the Northwest Medical Clinic). In his physical examination, Dr. Heinzelmann notes that there is no obvious swelling or discoloration of either hand, that the claimant has a full and active range of motion of her fingers, thumbs, and wrists. He does note that Phalen's test is positive bilaterally, but more prominent in the left hand and that Tinel's sign is also positive bilaterally. He gives as his "impression" that the claimant has bilateral carpal tunnel syndrome which "appears to be related to her work activities which involved repetitive gripping." Finally, he recommends a bilateral carpal tunnel release.

Clearly, carpal tunnel syndrome is not generally considered as a permanent injury. It often times will resolve with only conservative treatment, particularly if the patient avoids future hand intensive activities. Generally, surgical intervention is only considered appropriate where there is evidence of significant impingement on the median nerve. In this regard, I would note that the nerve conduction studies performed on the claimant on September 12, 2002, were interpreted as showing only mild median conduction delays. It is also important to note that this study showed more significant changes involving the right median nerve than those involving the left.

While carpal tunnel syndrome is not generally considered a permanent injury, it may repeatedly occur in individuals who have an anatomical disposition for such a condition, due to a particular structure of their carpal tunnel and associated musculature. Thus, it frequently occurs whenever such an individual is required to perform hand intensive activities.

After consideration of all the evidence presented, it is my opinion that the greater weight of the credible evidence fails to establish that the claimant's present episode of carpal tunnel difficulties with its current need for medical services, is related to or connected with the previous episode of bilateral carpal tunnel syndrome that she experienced while employed for this respondent in August and September 2002. Instead, I find that the greater weight of the credible evidence support the conclusion that her previous episode of carpal tunnel syndrome resolved and that her present episode of carpal tunnel syndrome, together with its need for medical services, is more likely due to hand intensive activities that occurred subsequent to the termination of her employment with this respondent. Thus, the additional medical services she now seeks would not be necessitated by or related to her initial compensable bilateral carpal tunnel syndrome, and these services would not represent "reasonable and necessary medical services" for her compensable injury, under Ark. Code Ann. §11-9-508.

The only evidence presented by the claimant to prove the existence of a causal connection between her compensable bilateral carpal tunnel syndrome in August and September 2002 and her current difficulties (also diagnosed as bilateral carpal tunnel syndrome), is her own testimony. I simply do not find her testimony to be sufficiently credible to prove this causal connection.

The claimant's testimony and the history she related to Dr. Heinzemann, that her symptoms with both hands and wrists continued essentially unabated sine their inception in August of 2002, is contradicted by and in conflict with other more credible evidence

presented. First, it is contradicted by the reports of Dr. Moffitt. He notes that the claimant experienced a significant improvement of her compensable carpal tunnel syndrome after only a brief period of conservative treatment, including a temporary change in her employment position. He further notes that this improvement continued until September 20, 2002, when the claimant reported a complete resolution of the symptoms and difficulties involving her dominant left hand and wrist and only minimal symptoms involving her right hand and wrist. This reported improvement is supported by the physical examination conducted by Dr. Moffitt on that date. The fact that the claimant continued her employment with the respondent for a substantial period of time following September 20, 2002, without making any complaints or seeking any medical treatment for any continued difficulties with either her left or right hand or wrist further contradicts the claimant's testimony and the history she related to Dr. Heinzelmann of continuous complaints with both hands and wrists since August and September of 2002. The history recorded by the Northwest Medical Clinic on January 20, 2003, is also contradictory to this testimony and subsequent history. As previously noted, the reports of this facility also record that the claimant's reported symptoms involved only her left hand and wrist and that these symptoms had their inception only two months prior to January 20, 2003. Although these records note that the claimant had experienced similar difficulties with her left hand while employed for the respondent, they also note that these difficulties had at least substantially "improved" following her employment with this respondent and had worsened only recently. The fact that the claimant made no mention whatsoever of symptoms involving her right hand and wrist, until she consulted Dr. Heinzelmann on February 6, 2003, is clearly inconsistent with her testimony and the history she gave to Dr. Heinzelmann. Instead all of the evidence supports the conclusion that the claimant's current difficulties with her hands and wrists, also diagnosed as bilateral carpal tunnel

syndrome, are the result of some subsequent activity or event that occurred after the termination of her employment with this respondent.

#### FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On all relevant dates prior to October 21, 2002, the relationship of employee-self insured employer-third party administrator exists between the parties.
3. The appropriate weekly compensation rates are \$232.00 for total disability and \$174.00 for permanent partial disability.
4. During her employment with this respondent, the claimant sustained a compensable injury to her hands and wrists, in the form of bilateral carpal tunnel syndrome.
5. All reasonably necessary medical expenses incurred by the claimant for this compensable injury have been paid by the respondent.
6. The claimant has failed to prove by the greater weight of the credible evidence that her present difficulties with her wrists and hands, also diagnosed as bilateral carpal tunnel syndrome, are causally related to her prior compensable bilateral carpal tunnel syndrome. Thus, the medical services that are necessitated by or related to her present episode of difficulties with her hands and wrists are not necessitated or related to her previous compensable bilateral carpal tunnel syndrome and would not represent "reasonably necessary medical services" for this compensable injury.
7. The respondents have controverted the claimant's entitlement to any additional medical services received or recommended after September 20, 2002.

ORDER

Based upon my foregoing findings and conclusions, I have no alternative but to deny and dismiss the present claim for additional benefits, in the form of the payment of expenses incurred for additional medical services after September of 2002.

IT IS SO ORDERED.

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MICHAEL L. ELLIG  
ADMINISTRATIVE LAW JUDGE