

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E901098

JERRY LAMB

CLAIMANT

USA TRUCK  
SELF INSURED

RESPONDENT

OPINION FILED OCTOBER 17, 2003

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

Claimant appeared pro se.

Respondents represented by J. RODNEY MILLS, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

A hearing was held on August 21, 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 September 11, 2002. 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 January 21, 1999, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained compensable injuries to his left shoulder, neck and back.

4. The claimant is entitled to the maximum compensation rate for 1999 which is \$375.00 for temporary total disability.

5. The claimant was paid TPD from January 22, 1999, to February 23, 1999.

6. Medical expenses have been paid to date.

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

1. Additional medical after October 20, 1999.

In regard to the foregoing issues the claimant contends that he was not compensated fairly for the injury he sustained on January 21, 1999. I went back to work but I was still having problems with the neck and shoulder and I stated this to my fleet manager on October 22, 1999.

In regard to the foregoing issues the respondents contend that all benefits due and owing the claimant as a result of his compensable injury have been paid. The alleged injuries for which the claimant now seeks workers' compensation benefits did not arise out of or in the course and scope of his employment for the respondent. The medical treatment sought by the claimant is not authorized, reasonable and/or necessary as a result of a compensable injury. No compensable event is the major cause of the claimant's current alleged injury or need for medical treatment. The alleged condition for which the claimant now seeks benefits, if it in fact exists, was preexisting and/or degenerative in nature and did not arise out of a compensable event.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No. 1. The claimant submitted medical documentation as well as non

medical documentation marked respectfully Claimant's Exhibit No. 1 and Claimant's Exhibit No. 2. All these exhibits were admitted without objection.

#### DISCUSSION

The parties have stipulated and the claimant testified that he sustained a compensable injury to his left shoulder and the left side of his neck, abrasions across his chest and his arm on January 21, 1999, while working for the respondent. The claimant testified that as a result of his truck accident, he was taken immediately to the hospital where he was kept overnight for observation. The claimant testified that he was released the next day and taken to the claimant's terminal in Shreveport, Louisiana, rather than allowed to go back to his home in North Carolina. The claimant testified that he stayed in the Shreveport area and continued with his physical therapy for about a month. The claimant testified that the sleeping conditions were not very comfortable stating that it was "like a restless nightmare for a whole month." The claimant testified that the respondent did see that he was transported to and from his physical therapy sessions and he was put on light duty. The claimant testified that he was released to return to work on February 25, 1999. The claimant testified that he went back to his regular job of driving for the respondent. The claimant testified that he continued to have discomfort and at one time was seen by a medical provider in his home area in North Carolina but when he was called back to work by the respondent he had to get a release from this medical provider so he could fulfill his job duties. The

claimant testified that he quit working for the respondent in April 2000 but has continued to work as a truck driver. The claimant testified that his current job is less strenuous and the work is a lot different. The claimant testified that he has not continued to be seen by a doctor because the respondent would not pay for it.

On cross examination, the claimant agreed that after his motor vehicle accident he worked light duty for the respondent at the Shreveport terminal until he was released to full duty work on February 24, 1999. The claimant agreed that Dr. Till released him with no restrictions and he returned to his job of over the road truck driving at the same pay having the same duties as he did prior to his accident. The claimant further agreed that he continued to work for the respondent in this capacity until he voluntarily quit sometime in April 2000. The claimant agreed that during the period of time that he was working light duty at the Shreveport terminal, the respondent provided him physical therapy. The claimant testified that even after he was released to return to full duty work with no restrictions, he still could feel pain in his left shoulder. The claimant testified and agreed that, in his deposition, he had stated that he quit his job so that he could be closer to his family but further stated that he also was still having some discomfort in his shoulder. The claimant agreed that he went to a walk in clinic in his hometown of Wilmington, North Carolina and was seen by doctors at the Urgent Health Care Clinic. The claimant also agreed that between October 1999 and August 2002 he had not received any medical treatment for anything that was

related to his workers' compensation claim. The claimant agreed that the treatment which he has received for his accident related problems have been paid by the respondent. The claimant testified that his left shoulder is not a constant pain but only bothers him when he has to put stress or overuses his shoulder. The claimant testified that his current employment does not put any stress on his shoulder.

The medical records set forth that the claimant was seen at the Madison Parish Hospital in Tallulah, Louisiana on January 21, 1999, and upon release was instructed to follow up with his family doctor for any continued symptoms or changes. Dr. Jeff Till writes on January 25, 1999, that the claimant was involved in a motor vehicle accident and was treated for muscle strain, noting that the x-rays were negative according to the claimant. Dr. Till notes that the claimant complains of some stiffness in his neck and shoulders but denies any numbness. After examination, the claimant was diagnosed with cervical and upper thoracic muscle strain and was placed on light duty work with no driving. Physical therapy was also recommended. Dr. Till next writes on February 1, 1999, that he has reviewed the claimant's x-rays and they are negative, noting that the claimant states that his pain is localized in his left upper shoulder area. Dr. Till notes that upon palpitation of the trapizoidal and cervical groups on the left reveal some muscle spasm. The claimant was continued on his medications and physical therapy was to be undertaken daily. Dr. John Epling writes on February 9, 1999, that the claimant is somewhat improved but

persists with discomfort in his neck and shoulder, therefore, he is to continue to participate in therapy daily. Dr. Epling released the claimant to return to full duty work with no limitations on February 24, 1999. The claimant was seen at the Doctor's Urgent Care Center on October 20, 1999, with complaints of muscle pain in his neck. No limitations were set out and it is indicated that the claimant can return to work immediately. It is noted that the claimant should minimize use of his left hand and arm as best he can while driving. This medical report does not set forth any treatment plan.

After a complete review of this entire case, I find that the claimant has failed to prove his entitlement to additional medical treatment for his compensable injury sustained on January 21, 1999. The claimant, at that time, was diagnosed with a muscle strain and by his own testimony has not received any type of medical attention for any discomfort in his neck and left shoulder for a period from October 1999 until August 2002. The claimant voluntarily terminated his employment with the respondent in April 2000 but has continued to work as a truck driver in the North Carolina area. The last two medical reports in this record indicate that the claimant is in no need of further medical treatment and it would seriously be questioned if, after this long period of time, any problems that the claimant might be having with his left shoulder are resulting from his 1999 injury. Therefore, this claim will be denied in its entirety.

FINDINGS & CONCLUSIONS

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On January 21, 1999, the relationship of employee-employer-carrier existed between the parties.
3. The claimant sustained compensable injuries to his left shoulder, neck and back.
4. The claimant is entitled to the maximum compensation rate for 1999 which is \$375.00 for temporary total disability.
5. The claimant was paid TPD from January 22, 1999, to February 23, 1999.
6. Medical expenses have been paid to date.
7. The claimant has failed to prove by a preponderance of the evidence that he is entitled to additional medical treatment for his 1999 compensable injury.

ORDER

The claimant has failed to prove by a preponderance of the evidence that he is entitled to additional medical treatment for his neck and shoulder resulting from his 1999 motor vehicle accident. Therefore, this claim should be denied in its entirety.

IT IS SO ORDERED.

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ELIZABETH DANIELSON  
ADMINISTRATIVE LAW JUDGE