

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F213352

CAROL SPLETTSTASZER

CLAIMANT

ARTRAN, INC. DBA TMC  
UNINSURED

RESPONDENT

OPINION FILED JULY 18, 2003

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Springdale, Washington County, Arkansas.

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

Respondents represented by GAIL GAINES, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on April 22, 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 February 4, 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 August 2, 2001, the relationship of employee-employer existed between the claimant and Artran.

3. The claimant went to work for TMC in November 2001 to January 4, 2002.

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

1. Employment relationship.
2. Compensability of the claimant's bilateral carpal tunnel.
3. Temporary total disability from January 4, 2002, to December 2, 2002.
4. The appropriate compensation rate for this claimant.
5. Attorney's fees.

In regard to the foregoing issues the claimant contends that she had incurred temporary total disability as a result of an incident on January 4, 2002, when she developed carpal tunnel. She maintains she is entitled to temporary total disability and medical.

In regard to the foregoing issues the respondents contend that the claimant was not employed by Artran, Inc. on January 4, 2002, the date of her alleged injury and that she had not worked there since August 2001. Respondents contend claimant did not sustain an accidental injury arising out of and in the course of her employment nor did she timely and properly report an alleged injury.

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 information marked Claimant's Exhibit No. 1. The respondents submitted medical information marked Respondent's Exhibit NO. 1. All these exhibits were admitted without objection.

DISCUSSION

The claimant testified that she began working for Artran, Inc. on August 10, 1989. The claimant testified that she was hired as a solderer. The claimant explained that this company made boards for satellite receivers. The claimant testified that she made cable, some coaxial and some flat ribbon. The claimant testified that they put on crimp pins which are very tiny and require the use of both of her hands as well as the use of various tools in order to complete the task. The claimant further explained that she would hold a soldering iron as well as tweezers in her left hand and hold the part down with her right hand, a part was then placed on with the tweezers and then she would use the soldering iron to secure the piece. The claimant went on to testify that her work included using an Exacto knife as well as scrapping a coating off a thirty to twenty-eight gage wire coil. The claimant testified that the wire was so small that if you were not careful you would break the wire and have to start the process all over again. The claimant agreed that this work was so small that she worked under a large magnifying lamp in order to do her work. The claimant testified that sometimes they had to make little jumpers in order to repair a board and this again involved stripping the wire, cutting to its desired length which was an inch or smaller and then soldering the connections onto the board. After the boards were completed and tested they are assembled into a satellite receiver. The claimant testified that when the boards were assembled into the receiver a magnifying glass is not required. The claimant

testified that mounting the board into the receiver required working the board into a slot with her fingers and hands and then securing it down with a screw using a phillips screw driver. The claimant testified that for a long period of time they just manually screwed the boards in but later on electric screw drivers were used. The claimant testified that she worked with both of her hands and the amount of time she was required to repeat the different elements for each board depended on the size of the contract which the company was under at the time. The claimant testified that making the coils would make her hands cramp up and sting, burn and hurt, hurting so bad she could not stand it.

The claimant testified that Artran made other things such as a spot box but that basically they made boards.

The claimant testified that in August 2001 Artran had a layoff and she did not work until October 22 of that year. The claimant testified that she did not work for anyone else during this period of time and her hands and arms continued to hurt. The claimant testified that when she returned to work in October 2001 she basically returned doing the same type work she had been doing before. The claimant testified that during the two-month layoff her hands and arms did not bother her as much as they did when she was working but her symptoms did increase when she returned to work.

The claimant testified that she was first seen for her hand problems by Dr. Jackson in February 2002. The claimant agreed that it was not until May 2002 that she was seen by Dr. Bryan Benefield.

The claimant testified that between the time she was seen by Dr. Jackson and Dr. Benefield, her symptoms increased and the pain had radiated up into her right shoulder. The claimant testified that she last worked on January 4, 2002. The claimant stated that she had not worked from January 4, 2002, through the time she was seen by Dr. Benefield in May. The claimant testified that from the time she began working for the respondent in 1989 until January 4, 2002, she worked for the respondent doing the type of work which she had testified to with the exception of the two-month layoff in August 2001 to October 2001. The claimant testified that she told "Shirley" that she was having problems with her hands and arms. The claimant testified that Shirley was her lead person and they worked together. The claimant testified that Shirley would encourage her to rotate the type of work that she was doing when the claimant would complain about her hands bothering her. The claimant testified that the last two years that she worked for the respondent, her hands were at the very worst. The claimant also testified that she has never been treated for any problems with her hands, arms and wrists prior to seeing Dr. Jackson.

The claimant testified that she began working for the school in April 2002 and began working again for the school in September when school began again. The claimant testified that she worked in the kitchen eight hours or more per work week. The claimant testified that the work which she does for the school does not compare in the amount of work she is required to do with her hands as that which she had done for the respondent. The claimant

testified that she has not had surgery but she has continued to be seen by Dr. Benefield. The claimant testified that she has had cortisone shots in both her arms and she had talked with him about surgery. The claimant testified that her arms and hands still get very sore when the cortisone wears off and her arms get stiff and her hands hurt as well as go numb. The claimant testified that this is true with both her hands and arms.

On cross examination, the claimant agreed that from the time she was laid off by the respondent in January 2002, she filed for and drew unemployment until December 2002. The claimant agreed that sometimes her unemployment would be less because she was actually working and drawing wages. The claimant testified that the largest unemployment check which she received she thought to be about \$198.00 per week. The claimant agreed that she, as a hobby, is a quilter but due to the problems with her hands, she is not able to work on her quilts. The claimant agreed that while she worked for the respondent she did quilting and often would show them to her coworkers. The claimant agreed that one time she did send two quilts to one of her coworker's relatives who had a business in North Carolina. The claimant agreed that she also does some sewing for her grandchild who lives with her. The claimant agreed that she does some canning and freezing for her family. The claimant testified that she and the other women which she worked with would switch off job tasks but she primarily did surface mounts. The claimant testified that the other ladies would help her with stripping the coils if they had time. The claimant

testified that her supervisor was Jim Beavers but Shirley was the person to whom she would take matters. The claimant testified that she has been in the presence of Mr. Beavers and Shirley when Shirley would be talking to him about getting tools because their hands were hurting. The claimant testified that she never reported that she was having problems with her hands to anyone in a supervisory position. The claimant further agreed that she did not report to any supervisors when the company was called Altran that she had a problem with her hands nor did she make such a report when they returned to work in October 2001 when the company was then called TMC.

Dwayne Sanders testified on behalf of the respondents stating that during the first half of 2001 he worked for Artran as an electronic technician testing and repairing equipment. Mr. Sanders testified that he worked with the claimant and agreed that the job which the claimant performed was basically soldering components on boards and sometimes making cabling. Mr. Sanders testified that the tools which the claimant would have been using were a soldering iron, strippers and crimpers depending on what they were working on. Mr. Sanders stated that the claimant never mentioned anything about her hands hurting nor, in his opinion, did she appear to be in any kind of discomfort. Mr. Sanders stated that he was laid off at the same time the claimant was by Artran and was rehired by TMC in October 2001. This witness stated that when the claimant was rehired in October 2001 by TMC he did not notice her having any problems. When asked, Mr. Sander stated that the claimant was the

quickest of the three ladies doing their job and she remained so, in his opinion, when she came back in October.

Steve Ballard testified on behalf of the respondent stating that he was employed by TMC Enterprises as their general manager. This witness testified that in the early part of 2001 he was employed with Artran and he was the chief operating officer and vice president of that company. Mr. Ballard stated that he had worked for Artran for approximately ten years and worked for Artran or was paid by Artran up through October 2001. This witness testified that everyone that went to work for TMC was employed by Artran. Mr. Ballard testified that he has observed the claimant doing her work and that her description of her job duties was accurate. Mr. Ballard testified that the majority of the claimant's time would be spent soldering but she spent approximately 20 percent making cable and about 10 percent doing chassis assembly. Mr. Ballard stated that the claimant worked with probably twenty to thirty different tools doing these various jobs. This witness testified that there is no ridged schedule but the claimant is assigned to do whatever task was needed. Mr. Ballard stated that initially he was her immediate supervisor and then Jim Beavers became her supervisor after he was promoted. Mr. Ballard stated that Shirley Bershears was the claimant's lead person. This witness testified that the respondent did have a policy concerning reporting work related injuries and, to his knowledge, the claimant never reported an on the job injury to her hands nor did she ever complain to him about her hands. Mr. Ballard testified that the

claimant performed her duties extremely well and her performance evaluations every year were very positive. Mr. Ballard stated that the claimant was one of the highest producers among the employees. Mr. Ballard stated that the claimant's last day of work for Artran was August 22, 2001, and that she was hired to work for TMC during the last week of October 2001. Mr. Ballard stated that when the claimant returned to work for TMC he saw no difference in her performance as to her job duties. This witness testified that the claimant stopped working for TMC because that company was unable to secure additional contracts to keep her working. Mr. Ballard was asked what the relationship between Artran and TMC was and Mr. Ballard responded that the only relationship is that the business entities at TMC originated at Artran noting that Artran's assets were purchased by TMC Enterprises directly. Mr. Ballard testified that the first he learned about the claimant's workers' compensation claim was when he received a call from Hanover Insurance Company trying to reach someone with Artran. Mr. Ballard stated that this call was received in October or November 2002 and this was the first they were aware that the claimant was filing a workers' compensation claim.

Sharon Kern testified that she had been an insurance agent for the past twenty-four years and she had handled the insurance for Artran and was aware that that policy was to end the end of October 2001. This witness testified that she serviced the contracts for Artran as well as then TMC. Ms. Kern testified on cross

examination that it was group contracts that she serviced for these two entities.

The medical records set forth that the claimant was seen on February 19, 2002, with complaints of right arm numbness which has been going on for four months. It is also noted that she has some swelling. The claimant reports that her problems started with overwork in September when she was stripping cabinets. It is noted that her right arm started to develop tenderness, shooting pain that now radiates down her arm and the pain is intermittent and touching or moving it makes it worse. The claimant was diagnosed with carpal tunnel syndrome. The claimant was seen on follow up for continued complaints of right arm numbness. There is a medical record dated November 27, 2002, which notes that the claimant has pain in both wrists and she sees Dr. Benefield and he has recommended surgery for her right hand. Dr. Benefield writes on October 8, 2002, that the claimant's nerve conduction studies show involvement only on the right median sensory latency with some prolongation consistent with a mild carpal tunnel syndrome. Dr. Benefield writes that the rest of her nerves and bilateral upper extremities are normal and recommends that they try to treat her non-operatively and recommended that she use wrist splints bilaterally and to stay on her anti-inflammatories. Dr. Benefield writes again on December 20, 2002, that he has seen the claimant on follow up for her elbows and she reports that her injections did help. On examination, Dr. Benefield notes that the claimant has minimal tenderness in the lateral epicondyle and no real

provocative signs. Dr. Benefield notes that he would recommend surgery for the claimant if this is a continuing source of irritation to her. Dr. Brian Benefield writes February 25, 2003, to the claimant's attorney stating that in regard to the claimant she has clinical findings both on history and physical exam suggestive of carpal tunnel syndrome and has objective findings of a nerve conduction study which confirms this diagnosis.

The pay records involving the claimant from Artran indicate that she last worked for Artran on or about August 12, 2001, and began being paid by TMC on or about October 23, 2001. The pay records from TMC state that she worked approximately forty hours and her pay period ended on October 28, 2001, which would indicate that she began working for them on October 23, 2001.

After a complete review of this record, I find that the claimant has failed to prove by a preponderance of the evidence that her carpal tunnel syndrome problems arose out of and in the course of her employment. Certainly it is not questioned that the claimant's work for Artran as well as TMC was hand intensive. Her co-employees and supervisor testified that she was a good worker and a quick productive worker, however, there is no indication from the various witnesses' testimonies that the claimant ever made known to anyone that she was having any hand or arm problems while working for Artran or TMC and the claimant herself has indicated that she reported no problems with her hands and arms. The first medical record in this file where the claimant reports pain and discomfort in her right arm indicates that she overworked in

September when stripping cabinets and developed pain and tenderness at that time. It is noted from the pay records that the claimant was not working for Artran or TMC in September. Even if this claim had been found to be compensable, it is noted that the claimant did not report a workers' compensation injury until in the fall of 2002, therefore, no medical care prior to the filing of her claim would be ordered. It is further noted that the claimant has testified that she has drawn unemployment from shortly after she quit working for the respondent in January 2002 and has also worked for the school system in the cafeteria from April 2002 to May 2002 then again beginning in September 2002 to date. Therefore, very little if any temporary total disability would have been awarded in this matter.

#### FINDINGS & CONCLUSIONS

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

2. On August 2, 2001, the relationship of employee-employer existed between the claimant and Artran.

3. The claimant went to work for TMC in November 2001 to January 4, 2002.

4. The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury while working for the respondent. See discussion above.

#### ORDER

The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury while working for

the respondent. Therefore, this claim should be denied in its entirety.

IT IS SO ORDERED.

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ELIZABETH DANIELSON  
ADMINISTRATIVE LAW JUDGE