

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F108318**

**RICHARD L. ANDREWS**

**CLAIMANT**

**CITY OF HOT SPRINGS**

**RESPONDENT EMPLOYER**

**MUNICIPAL LEAGUE WCT**

**RESPONDENT CARRIER**

**ORDER AND OPINION FILED JANUARY 12, 2004**

Hearing before Administrative Law JUDGE LINDA K. MARSHALL.

Claimant represented by the HONORABLE JON B. GANN, Attorney at Law, Hot Springs, Arkansas.

Respondents represented by the HONORABLE J. CHRIS BRADLEY, Attorney at Law, North Little Rock, Arkansas.

**STATEMENT OF THE CASE**

The above claim came on for a hearing in Hot Springs, Arkansas on November 26, 2003. A prehearing conference was held on October 28, 2003 and a prehearing order was filed the same date. A copy of the prehearing order was marked as Commission Exhibit No. 1 and made a part of the record without objection.

At the prehearing conference, the parties agreed to the following stipulations:

1. There was an employer-employee relationship on July 4, 2001.
2. The temporary total disability rate is \$353.

The claimant contends he sustained a specific incident injury on July 4, 2001 and is entitled to medical expenses. All other issues are reserved.

The respondents contend the claimant did not sustain a compensable injury supported by objective findings while in the course and scope of his employment.

From a review of the record as a whole, to include medical reports, documents and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witnesses and to observe their demeanor, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. §11-9-704:

**FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW**

1. There was an employer-employee relationship on July 4, 2001.
2. The temporary total disability rate is \$353.
3. The claimant has failed to prove by a preponderance of the evidence that he sustained a compensable injury supported by objective findings pursuant to Ark. Code Ann. §11-9-102(4)(D).

**DISCUSSION**

The claimant, 37 years old, is a police officer assigned to patrol and has been in that capacity for about 7 years. The claimant primarily works the streets in a patrol car. On July 4, 2001, the claimant answered a call where another patrol car was stolen. The claimant saw the suspect who had abandoned the vehicle and a foot chase began. According to the claimant, he had to ascend three six-foot chain link fences in his chase. The claimant testified that he felt some pain in his right groin area. The claimant reported the injury but did not immediately seek medical attention, as he thought he had pulled a muscle going over the fences. The claimant continued working for several days but continued to feel a sharp pain in the right groin that would come

and go. Finally, on July 21 or 22, 2001, as the claimant was showering and getting ready for work, he testified the pain was severe and he went to the emergency room. The claimant advised his sergeant that he was going to the emergency room.

The claimant had a previous problem in June 2000, that started with blood in his urine and ended with surgery to correct a kidney that had fallen. The claimant was off work about three months and returned to work. According to the claimant, he had no further problems until the July 4, 2001, incident. The claimant was hospitalized for over 20 days in Hot Springs and transferred to UAMS and was hospitalized another four days. The claimant sought treatment at the VA Hospital and received a nerve block and pain medicine. The claimant testified that he is much improved and has not been back to the doctor.

In order to prove a compensable injury as a result of a specific incident that is identifiable by time and place of occurrence, a claimant must establish (1) proof by a preponderance of the evidence of an injury arising out of and in the course of employment; (2) proof by a preponderance of the evidence that the injury caused internal or external harm to the body that required medical services; (3) medical evidence supported by objective findings establishing the injury; and (4) proof by a preponderance of the evidence that the injury was caused by a specific incident and identifiable by time and place of occurrence. Ark. Code Ann. §11-9-102(4) (Repl. 2002). If the claimant fails to establish by a preponderance of the evidence any of the requirements for establishing the compensability of the claim, compensation must be denied. *Mikel v. Engineering Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

In the present case, there was no dispute about the claimant ascending fences and making an arrest on July 4, 2001, and then reporting a groin injury to his supervisor. The claimant presented credible testimony of his work incident and the pain and problems he encountered following the July 4, 2001, incident. In order for the claimant to sustain his burden of proof for a compensable work injury, he must prove that he required medical treatment and his injury or condition must be supported by objective findings. See, Ark. Code Ann. §11-9-102(4)(D). “Objective findings” are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102(16). In the present case, the medical opinion, as stated by Dr. Ron Kales, indicates the claimant’s condition is compatible with a pulled groin muscle. There was no bruising or swelling noted in the medical evidence. Unfortunately, pulled muscles present a difficult condition for “objective findings.”

The claimant testified that he sought a nerve block from the VA Hospital and has had remarkable relief since then. One medical note from the VA Hospital on August 22, 2001, reported that after the nerve block “pt. had almost full relief of pain after 10 minutes, confirming ileoinguinal nerve entrapment...” (Cl. Exh. No. 1, p. 72.) However, an August 29, 2001, VA Hospital note states, “Left inguinal pain after LIH repair in Hot Springs which has greatly improved over with blocking the nerve with local and with elavil. Suspect that he had left inguinal nerve intrapment.” (Cl. Exh. No. 1, p. 72.)

The Arkansas Court of Appeals in *Winslow v. D&B Mech. Contractors*, 69 Ark. App. 285, 13 S.W.3d 180 (2000) has held that post-surgical improvement is a relevant consideration in determining whether surgery was reasonably necessary. In the present case, there was no surgery; however, a conservative nerve block seemed to

provide improvement and point to a nerve entrapment. The *Winslow* case dealt with reasonable and necessary medical treatment while the present case deals with objective findings. In the present case, the claimant's improvement is his lessened pain level which is subjective. I am simply unable to find that the medical evidence provides the required "objective findings" for establishing a compensable injury. Therefore, I find the claimant has failed to prove by a preponderance of the evidence that he sustained a compensable injury supported by objective findings.

**ORDER**

The claimant has failed to prove by a preponderance of the evidence that he sustained a compensable injury supported by objective findings pursuant to Ark. Code Ann. §11-9-102(4)(D). The claim for benefits is respectfully denied and dismissed.

**IT IS SO ORDERED.**

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**LINDA K. MARSHALL**  
**ADMINISTRATIVE LAW JUDGE**