

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F401821

VEANCE BINNS, EMPLOYEE	CLAIMANT
MAXWELL HARDWOOD FLOORING, EMPLOYER SELF-INSURED	RESPONDENT
COMPENSATION MANAGERS, INC. (TPA), INSURANCE CARRIER	RESPONDENT

OPINION FILED NOVEMBER 30, 2004

Hearing before Administrative Law Judge Cynthia Estes Rogers on September 2, 2004, in Little Rock, Pulaski County, Arkansas.

Claimant appeared Pro Se.

Respondents represented by Mr. Robert L. Henry, III, Attorney at Law, Little Rock, Arkansas.

A hearing was held on September 2, 2004, to determine claimant's entitlement to temporary total disability benefits and additional medical benefits in regard to the claim filed herein.

The parties stipulated to the existence of the employee-employer relationship on January 14, 2004. It was further stipulated that the claimant's earnings were sufficient to entitle him to weekly indemnity benefits of \$169.00 for temporary total disability and permanent partial disability benefits.

Claimant contends that he sustained injuries to his groin, hip, and lower back on January 14, 2004, when he was struck between the legs by a board coming out of a machine at work. Claimant contends that respondent has refused to pay for reasonably necessary medical treatment beyond an initial visit with the company doctor, Dr. Reinhart. Claimant contends he is entitled to additional reasonably necessary medical treatment. Claimant further contends that he has been unable to

work since the date of injury and is entitled to temporary total disability indemnity benefits from January 14, 2004, through a date yet to be determined.

Respondents contend that claimant was provided medical care, paid for by respondents. Respondents further contend that the claimant was released to return to light duty on January 21, 2004; that he was offered light duty but refused to return to work; and, as such, he is therefore not entitled to temporary total disability benefits under Rule 9 of the Rules of the Arkansas Workers' Compensation Commission and Ark. Code Ann. § 11-9-501.

STATEMENT OF THE CASE

Claimant testified that he had been employed with respondent employer approximately three weeks when he was injured on the job on January 14, 2004. On that date, claimant was struck between the legs by a board coming out of a machine at work. Claimant reported the injury and was seen by the company doctor, Dr. Reinhart. The medical bills from Dr. Reinhart were paid by respondents. Dr. Reinhart issued a letter releasing claimant to light duty on January 21, 2004.

Claimant testified that he presently lives with his mother and was living with her on the date of injury. Dustin Prince, Human Resources Manager for respondent employer, testified that after receiving notice from Dr. Reinhart that claimant had been released to return to light duty on January 21, 2004, Mr. Prince repeatedly attempted to contact claimant at the emergency/contact number claimant had listed on his employment application. Mr. Prince testified that he spoke with claimant's mother and left messages with her that light duty work was available for claimant. Claimant never returned the phone calls but did come into the office three or four days

after Mr. Prince had left messages. Mr. Prince testified that claimant refused to accept the light duty made available to him.

Claimant testified that he was never aware that Dr. Reinhart had released him to light duty. Claimant contends that he was scheduled to return to see Dr. Reinhart on January 28, 2004, although he did not return to see him. Claimant testified that he could not personally afford to return to the doctor. Claimant contends he is in need of additional medical treatment at respondents' expense. Claimant further seeks temporary total disability indemnity benefits from January 14, 2004, through a date yet to be determined.

FINDINGS OF FACT

1. Claimant was injured on January 14, 2004.
2. Claimant was released by his treating physician to return to light duty on January 21, 2004.
3. Claimant has failed to meet his burden of proving by a preponderance of the credible evidence that he is entitled to temporary total disability indemnity benefits.
4. Claimant has failed to meet his burden of proving entitlement to additional medical treatment at respondents' expense.

DISCUSSION

Rule 9 of the Rules of the Arkansas Workers' Compensation Commission states that the waiting period provided for in Ark. Code Ann. § 11-9-501(a) "shall commence on the day after the date of injury and shall be construed to continue for seven (7) calendar days." Arkansas Code Annotated § 11-9-501 states in pertinent part:

(a)(1) Compensation to the injured employee shall not be allowed for the first seven (7) days' disability resulting from injury, excluding the day of injury.

(2) If a disability extends beyond that period, compensation shall commence with the ninth day of disability.

Here, the claimant was released to return to work on light duty on January 21, 2004, seven days following the date of injury. After claimant did not return to work, respondent employer attempted on a number of occasions to contact him in order to inform him that light duty was available. Claimant refused to return to the light duty available. Therefore, although claimant may have, in fact, not worked since the date of injury, light duty work was made available to him within the waiting period provided for in Rule 9 and § 11-9-501; as such, claimant is not entitled to temporary total disability indemnity benefits as a result of this injury.

Further, other than his own self-serving testimony, claimant has provided no credible evidence that his alleged need for additional medical treatment is reasonably necessary in relation to his compensable injury. Given the record before me, it would require speculation and conjecture on the part of this examiner to conclude that claimant is entitled to further medical treatment at respondents' expense.

For the above-stated reasons, this claim is respectfully denied and dismissed.

IT IS SO ORDERED.

CYNTHIA ESTES ROGERS
Administrative Law Judge