

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F309824

JIMMY R. JOHNSON

CLAIMANT

DUIT CONSTRUCTION CO., INC.

RESPONDENT EMPLOYER

ST. PAUL FIRE & MARINE INSURANCE CO.

RESPONDENT CARRIER

ORDER AND OPINION FILED OCTOBER 7, 2004

Hearing before Administrative Law **JUDGE LINDA K. MARSHALL.**

Claimant represented by the **HONORABLE TERENCE C. JENSEN**, Attorney at Law, Benton, Arkansas.

Respondents represented by the **HONORABLE RICHARD A. SMITH**, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

The above claim came on for a hearing in Little Rock, Arkansas on August 26, 2004. A prehearing conference was held on June 23, 2004 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 7, 2003.

The claimant contends that he sustained a compensable injury on July 7, 2003 and that he is entitled to medical benefits.

The respondents contend the claimant did not sustain a compensable injury and has controverted the claim in its entirety.

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 7, 2003.
2. The claimant has proven by a preponderance of the evidence that he sustained a compensable injury arising out of and in the course of his employment on July 7, 2003.
3. The respondents are responsible for all the reasonable and necessary medical treatment the claimant pursued at the Southwest Hospital and the Arkansas Heart Hospital from July 7, 2003 through July 10, 2003.

DISCUSSION

The claimant, 49 years old, worked as a driver for the respondent construction company. According to the claimant, on July 7, 2003, he was driving an 18-wheeler truck pulling a flatbed loaded with barrier wall on the north side of 430. According to the claimant, it was an extremely hot day with the heat index over 100 degrees and the passenger window in the truck would not roll down and the air conditioning was not working with the only air coming from the driver window. The heat and exhaust from the engine was coming into the cab of the truck. The claimant described what happened on July 7, 2003.

I had just gotten through unloading a load of barrier wall on the north side of 430. And I went back to the yard where we

had barrier wall stacked. And, when I got back to the yard, I was already real hot. And I just fell out of the truck, and I sat on the ground, trying to get air. (T., p. 9, lines 19-23.)

The safety supervisor, Allen Hansen, came to check on the claimant and he took the claimant in his truck to Southwest Regional Hospital. The claimant underwent some testing and was transported by ambulance to Arkansas Heart Hospital for problems associated with breathing and chest pain. The claimant stayed at the Heart Hospital for three days and returned to work for the respondent employer.

According to the claimant, he went into the air conditioned office on July 7, 2003, at his employer's business but he could not get cooled off. He began feeling nauseated and having chest pain. The claimant testified that he had never had heart trouble but did take high blood pressure medicine. The claimant did not miss more than 10 days of work and has only returned to the doctor for a couple of follow-up visits. The claimant does smoke a pack to a pack and a half cigarettes per day. The claimant has also been diagnosed with diabetes controlled by diet.

The claimant testified that he drank lots of water on July 7, 2003, because it was so hot; however, he was aware the medical records indicated he was dehydrated when he was hospitalized. According to the claimant, he had to strap down and unstrap the barrier walls on his trailer and he helped that day in placing the barrier walls on the highway. The claimant testified that his first day to drive the truck he was driving on July 7, 2003, was that one day.

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. 2003). 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, the claimant presented credible testimony about working on July 7, 2003, in 100 heat index temperatures and driving a truck with no air conditioning and a window that would not roll down. He described feeling as though he could not get enough air and having chest pains. The safety manager of the respondent took the claimant to Southwest Hospital Emergency Room for medical care and after some testing the claimant was transported to the Arkansas Heart Hospital for further evaluation. Dr. William Rollefson, a cardiologist who evaluated the claimant, provided additional information about the claimant in his August 10, 2004, deposition. Dr. Rollefson stated that the medical records reveal the claimant was immediately given nitroglycerin and the claimant's pain was relieved. Dr. Rollefson explained that nitroglycerin can lower blood pressure. The claimant was transported to the Arkansas Heart Hospital for a heart catheterization. Dr. Rollefson also noted that the claimant was referred to a nephrologist as he was having renal insufficiencies and his creatinine level was elevated. Dr. Rollefson confirmed the claimant was admitted to the hospital

for angina and there was concern that he had a blocked artery. Dr. Rollefson confirmed that on July 7, 2003, it was hotter than blazes; however, nothing was noted in the medical records about a heat-related event. Dr. Rollefson noted that the claimant was on a diuretic prior to his hospitalization and that people on diuretics working in hot environments can be susceptible to heat.

Dr. Rollefson was asked in a letter by the claimant's attorney if he could state within a reasonable degree of medical certainty that the claimant's symptoms on July 7, 2003, were caused by becoming extremely overheated. Dr. Rollefson responded that he could not state such within a reasonable degree of medical certainty but it was a possibility. Dr. Rollefson opined that the claimant presented with acute renal failure and he believed this was a combination of three things: taking the medications, Diovan and Hydrochloriothiazide and volume depletion. Dr. Rollefson opined that volume depletion can result if not enough water is being taken in and if one is overheated. Dr. Rollefson did not believe the medications alone caused the claimant's volume depletion and there was some other trigger. Dr. Rollefson confirmed that the heart diagnostic testing revealed no blockages and there was no heart attack nor was there muscle damage to the heart. The claimant presented with pain and it was similar to what you would expect with a cardiac event but the testing revealed it was not a cardiovascular event. Dr. Rollefson opined that heat can trigger a myocardial event. Dr. Rollefson was asked:

Q. [Mr. Jensen] In retrospect and looking back after knowing everything we know now - - after knowing that he didn't have a heart attack, now knowing that he had some type of event whereby he was dehydrated, that he was having these symptoms, is the likely triggering culprit the fact that Mr. Johnson was in the hot and got overheated?

A. [Dr. Rollefson] Yes.

Q. Is that opinion with, let's say, looking at the probabilities is it at least 51 percent or more probable that the heat is what caused this event to occur that Mr. Johnson came in for medical treatment for?

A. Well, one of the things that, you know, you could be looking for is, did he have evidence of heatstroke? I would say, no. He did not have evidence of heatstroke. That would be manifested as fever with profound volume depletion. Tachycardia, his heart rate, was 95 when he came in. Could he have heart injury in which he had heat exhaustion? That's certainly very possible - - greater than 51 percent. In absence of any other explanation that would be my best guess, and that's sometimes what we have to do.

Q. And that's exactly what I'm asking you for on this particular - -

A. I think in this case the heat did contribute.

Q. And we don't have any other provenance that could say something else triggered this event other than the heat, do we, Doctor?

A. That is correct. (Dep., p. 30, lines 15-25; p. 31, lines 1-16.)

Dr. Rollefson made a noble attempt to answer all the questions presented to him at the deposition in an extremely fair manner. He seemed to conclude that he could not definitively state with medical certainty that the heat caused the claimant's problems but he did conclude that he could state that the heat event was 51 percent or more the causation of the claimant seeking treatment.

The claimant was hospitalized about three days, underwent a number of diagnostic tests and was given a good report on his heart but recommended he follow

up for his blood pressure. The claimant testified that he followed up on two occasions and did not miss more than 10 days of work and continues to work.

After considering all of the medical evidence and the claimant's testimony, I find the claimant has proven by a preponderance of the evidence that he sustained a compensable injury in the course of and arising out of his employment. The claimant testified about the working conditions with the truck and the heat index exceeding 100 degrees and his chest pain and inability to get enough air. The medical records revealed acute renal failure, which the physician attributed to the two medications the claimant was taking and dehydration stemming from becoming overheated and not taking in sufficient water. Certainly, the acute renal failure satisfied the objective findings requirement of the statute. Ark. Code Ann. §11-9-102(16). I find respondents are responsible for all the reasonable and necessary medical treatment the claimant received at both Southwest Hospital and the Arkansas Heart Hospital. The medical evidence also includes some reports for follow-up treatment the claimant pursued following his release from the hospital and these visits were to check the claimant's blood pressure concerns. I find the respondents are only responsible for the emergency care the claimant received at Southwest Hospital and the Arkansas Heart Hospital.

ORDER

The claimant has proven by a preponderance of the evidence that he sustained a compensable injury arising out of and in the course of his employment on July 7, 2003. The respondents are responsible for all the reasonable and necessary medical treatment the claimant pursued at the Southwest Hospital and the Arkansas Heart

Hospital from July 7, 2003 through July 10, 2003. Claimant is responsible for any follow-up care.

IT IS SO ORDERED.

**LINDA K. MARSHALL
ADMINISTRATIVE LAW JUDGE**