

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F208439

JIM W. KING, EMPLOYEE

CLAIMANT

CITY OF PORTIA, SELF-INSURED EMPLOYER

RESPONDENT

MUNICIPAL LEAGUE WC TRUST, TPA

RESPONDENT

OPINION FILED JUNE 14, 2004

Hearing before Administrative Law Judge Andrew L. Blood, on April 2, 2004, in Jonesboro, Craighead County, Arkansas.

Claimant appeared Pro Se.

Respondent represented by the Honorable J. Chris Bradley, Attorney at Law, North Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted in the above claim to determine the claimant's entitlement to additional workers' compensation benefits.

On February 3, 2004, a pre-hearing conference was conducted in this claim, from which a Pre-hearing Order of the same date was filed. The Pre-hearing Order reflects stipulations entered by the parties, the issues to be addressed during the course of the hearing, and the parties' respective contentions relative to the issues. The Pre-hearing Order is herein designated a part of the record as Commission Exhibit #1.

Following the February 3, 2004, pre-hearing conference, the Pre-hearing Order and Hearing Notice of the scheduled April 2, 2004, hearing was mailed to the parties by certified mail, return receipt requested. While the claimant failed to appear for the hearing, the return receipt reflects that the Pre-hearing Order and Hearing Notice Filed on February 3, 2004, was

received by the claimant on February 6, 2004. The returned receipt evidencing the afore was secured and is herein designated a part of the record as Commission Exhibit #2. Also comprising the record in this claim are medical reports generated by the claimant's treating physician.

DISCUSSION

As reflected in the stipulations, the claimant was employed by respondent on June 28, 2002, when he sustained a compensable injury to his left knee. Claimant was paid temporary total disability benefits by respondent and permanent partial disability benefits to correspond to a 15% permanent impairment to the left lower extremity. Respondent also paid medical benefits of behalf of the claimant relative to the left knee injury.

Claimant asserts that at the time he suffered the compensable injury to his left knee, he also damaged the ulnar nerve in his left arm. Claimant maintains that the left arm has been symptomatic since the accident and that surgery has been recommended by his treating physician, Dr. John T. Woloszyn, a Jonesboro orthopedic physician. Claimant's employment with respondent ceased as a result of a reduction in force.

The medical in the record reflects a August 26, 2003, office note of Dr. Woloszyn relative to the claimant:

Mr. king comes back. His NCV study showed only a mild carpal tunnel syndrome but he has entrapment neuropathy in the L ulnar nerve as it crosses the elbow. His ulnar 2 fingers are numb. Would recommend surgical decompression with anterior subcutaneous transposition. We'll get this cleared with his Worker's Compensation carrier. (Rx. 1).

Respondent denied that the claimant's left arm complaint was related to the June 28, 2002, compensable injury. Rather than take the deposition of Dr. Woloszyn, the claimant's

treating physician, respondent solicited his response to a specific question. In correspondence dated February 3, 2004, a summary of the activity relative to the claimant's claim was relayed. On a August 28, 2003, message pad regarding nexus between the claimant's June 28, 2002, compensable injury, and the diagnosed left ulnar nerve complaint, Dr. Woloszyn responded "probably not work related". (Rx. 1). Dr. Woloszyn responded to the document which accompanied the February 3, 2004, letter of respondent's attorney, that in his medical opinion, to a reasonable degree of medical certainty, that the claimant's left elbow entrapment neuropathy, "is not related to his June 28, 2002, work related fall." (Rx 2).

From all of the evidence, I make the following:

FINDINGS

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On June 28, 2002, the relationship of employee-employer existed between the parties.
3. On June 28, 2002, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$317.00/\$239.00 for temporary total/permanent partial disability benefits.
4. On June 28, 2002, the claimant sustained an injury to his left knee arising out of and in the course of his employment.
5. The claimant has failed to prove by a preponderance of the evidence that he suffered an injury to his left elbow in the form of a left elbow entrapment neuropathy in his June 28, 2002, compensable accident, or that the afore diagnosis is related to the compensable injury of June 28, 2002.

CONCLUSION

The compensability of the claimant's June 28, 2002, left knee injury is not disputed. The sole issue at this juncture is whether the diagnosed left elbow entrapment neuropathy, for which claimant seeks medical and indemnity benefits, grow out of the compensable June 28, 2002, accident. The present claim is one governed by the provisions of Act 796 of 1993, in that claimant asserts entitlement to workers' compensation benefits for an injury having been sustained subsequent to the effective date of the provision.

The respondent owes only those benefits that are reasonably necessary in connection with the compensable injury sustained by the employee. *Morrow v. Mulberry Lumber Co.*, 5 Ark. App. 260, 635 S.W. 2d 283 (1982); *Dalton v. Allen Eng'g Co.*, 66 Ark. App. 201, 989 S.W. 2d 543 (1999); *GEO Specialty Chemical v. Clingan*, 69 Ark. App. 369, 13 S.W. 3d 218 (2000). The claimant bears the burden of proving, by a preponderance of the evidence, that additional medical treatment is reasonably necessary in connection with his injury. Ark. Code Ann. § 11-9-508 (a).

In the instant claim, the claimant's treating physician relative to the June 28, 2002, compensable injury has authored documentation reflecting his medical opinion that the diagnosed left elbow entrapment neuropathy is not related to the compensable June 28, 2002, injury suffered by the claimant. Respondent is not liable for workers' compensation benefit related to the claimant's left elbow complaint, medical or otherwise. The claimant has failed to sustain his burden of proof by a preponderance of the evidence that this left elbow complain grows out of the compensable June 28, 2002, injury. This claim is respectfully denied and dismissed.

IT IS SO ORDERED.

**Andrew L. Blood,
Administrative Law Judge**