

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F211026

DIANA K. MATHIS-HULL,  
EMPLOYEE

CLAIMANT

CARGILL, INC.,  
EMPLOYER

RESPONDENT

INS. CO. STATE OF PA,  
INSURANCE CARRIER

RESPONDENT

**OPINION FILED JULY 22, 2004**

Hearing conducted before ADMINISTRATIVE LAW JUDGE MARK CHURCHWELL, at Russellville, Pope County, Arkansas.

The claimant was represented by HONORABLE LAURA J. MCKINNON, Attorney at Law, Fayetteville, Arkansas.

The respondents were represented by HONORABLE TIMOTHY L. BROOKS, Attorney at Law, Fayetteville, Arkansas.

**STATEMENT OF THE CASE**

A hearing was held in the above-styled claim on June 9, 2004 in Russellville, Arkansas. A prehearing order was entered in this case on March 10, 2004. A copy of this prehearing order set out the stipulations offered by the parties and outlined the issues to be litigated and resolved at the present time. A copy of this prehearing order was made Commission's Exhibit No. 1 to the hearing record.

The following stipulations were submitted by the parties and are hereby accepted:

1. The parties stipulate to the employer-employee

relationship in both June and September 2002, and all relevant times.

2. This case has been controverted in its entirety.

3. The parties stipulate to a temporary total disability compensation rate of \$248.00 per week.

By agreement of the parties, the issues to be litigated and resolved at the present time were limited to the following:

1. Compensability of upper extremity injury (cubital tunnel/ulnar nerve entrapment injury).

2. Reasonable and necessary medical benefits relating to her upper extremity treatment and surgery.

3. The claimant's entitlement to TTD benefits from 09/06/2002 to a date yet to be determined.

4. Controversion.

5. Attorneys fees.

6. An offset against liability for disability compensation based on the claimant's receipt of unemployment compensation.

7. By agreement of the parties, the issue of deafness as an alleged compensable consequence of the claimant's compensable injury is reserved at this time.

As I discussed with the attorneys at the hearing, I have considered the compensability issue under all potential legal theories under Ark. Code Ann. § 11-9-102(4) (A) (Suppl. 2003).

### **DISCUSSION**

The claimant was employed in 2002 as a data entry specialist for the respondent. In June of 2002 the claimant presented to her physician with left arm symptoms which were ultimately diagnosed as cubital tunnel syndrome, i.e. an entrapment of the ulnar nerve in the left elbow. The claimant seeks workers' compensation benefits, asserting that trauma to her elbow arising out of her work as a data entry specialist caused the nerve injury in her left elbow. I have considered these contentions in light of the various definitions of "compensable injury" contained in Ark. Code Ann. § 11-9-102(4) (A) (Suppl. 2003).

To prove a compensable injury as a result of a specific incident which is identifiable by time and place of occurrence, the claimant must establish by a preponderance of the evidence: (1) an injury arising out of and in the course of employment; (2) that the injury caused internal or external harm to the body which required medical services or resulted in disability or death; (3) medical evidence

supported by objective findings, as defined in Ark. Code Ann. § 11-9-102 (16), establishing the injury; and (4) that the injury was caused by a specific incident identifiable by time and place of occurrence. Ark. Code Ann. § 11-9-102 (4) (A) (i) (Suppl. 2003). If the claimant fails to establish by a preponderance of the credible evidence any of the requirements for establishing the compensability of the claim, compensation must be denied. Mikel v. Engineered Specialty Plastics, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

Alternatively, Ark. Code Ann. § 11-9-102 (4) (A) (Suppl. 2003) defines "compensable injury" in relevant part as follows:

(ii) An injury causing internal or external physical harm to the body and arising out of and in the course of employment if it is not caused by a specific incident or is not identifiable by time and place of occurrence; if the injury is:

(a) Caused by rapid repetitive motion. Carpal tunnel syndrome is specifically categorized as a compensable injury falling within this definition[.]

The test for determining whether an injury is caused by rapid repetitive motion is two-pronged: (1) the task must be repetitive and (2) the repetitive motion must be rapid. Malone v. Texarkana Public Schools, 333 Ark. 343, 969 S.W.2d 644 (1998). Multiple tasks involving different movements

can be considered together to satisfy the "repetitive element" of rapid repetitive motion. Id.

A compensable gradual onset injury caused by rapid and repetitive motion must also be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D); Ark. Code Ann. § 11-9-102(16). For a gradual onset injury caused by rapid repetitive motion, the resulting condition is compensable only if the alleged compensable injury is the major cause of the disability or need for treatment. Ark. Code Ann. § 11-9-102(4)(E)(ii); Medlin v. Wal-Mart Stores, Inc., 64 Ark. App. 17, 977 S.W.2d 239 (1998).

In the present case, I find that the claimant failed to prove by a preponderance of the credible evidence that her cubital tunnel syndrome injury arose out of and in the course of her employment duties for the respondent for the following reasons.

First, while I note that the claimant performed a variety of office-related duties during the work day, she nevertheless spent six and one-half to seven hours of her eight hour work day typing on the computer. Furthermore, the claimant explained that 95% of her typing duties involved data entry and that the data entry involved typing

using the right hand only on a ten-key numeric pad. The claimant used her left hand during data entry only to mark her place on the page, either with or without a ruler.

At the hearing, the claimant's attorney clarified the claimant's contention that the manner in which the claimant positioned her arm during data entry nevertheless caused acute trauma to her left elbow. For my part, I note that no physician in this case has opined that the manner in which the claimant positioned her left elbow while typing with her right hand is a risk factor for developing cubital tunnel syndrome of the left elbow. Furthermore, even if the claimant had presented any credible evidence linking her left cubital tunnel syndrome to the position of her left arm during data entry, I note that the claimant's testimony fails to indicate that she sustained acute trauma from a "specific incident", and her testimony fails to indicate to me that her job duties in data entry and in general office work, taken together, required rapid repetitive motion of the left upper extremity. To the contrary, the claimant spent the majority of her work day with her left hand marking her place while she typed with her right hand. Therefore, even if the claimant had established some type of causal connection between her work and her cubital tunnel

syndrome, which she was not able to do on this record, I would still be constrained to find that the claimant has failed to establish a compensable injury under any of the categories identified in Ark. Code Ann. § 11-9-102(4)(A), since she has not alleged what I perceive as any "specific incident" and since she has likewise failed to establish that her work duties involved rapid repetitive motion of the left upper extremity.

Because the claimant has failed to establish the compensability of her cubital tunnel syndrome condition, I find that the remaining issues identified in our March 10, 2004 prehearing order are all moot.

**ORDER**

For the forgoing reasons, this claim must be and hereby is denied and dismissed.

IT IS SO ORDERED.

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MARK CHURCHWELL  
Administrative Law Judge