

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F204951

**VERONIA SPENCER,
EMPLOYEE**

CLAIMANT

**ST. VINCENT HEALTH
SYSTEM, INC.,
EMPLOYER**

RESPONDENT

**PREFERRED PROFESSIONAL
INSURANCE COMPANY,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED SEPTEMBER 17, 2004

Hearing conducted June 30, 2004, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. George S. Ivory, Jr., Attorney at Law, Little Rock, Arkansas, appearing for the claimant and

Mr. Walter A. Murray and Mr. D. Bryce Finley, Attorneys at Law, Little Rock, Arkansas, appearing for the respondents.

STATEMENT OF THE CASE

This is a dispute over compensability of the claimant's carpal tunnel syndrome.

The claimant contended that she sustained compensable bilateral carpal tunnel syndrome by specific incident on or about February 28, 2002, and should be awarded benefits, including reasonably necessary medical and related expenses, such as the expense of surgery performed April 26, 2002, and temporary total disability benefits from the date of surgery until May 30, 2002.

An attorney's fee for controversion was also requested. Other possible issues were reserved.

The respondents contended that, while the claimant may suffer from either pre-existing pathology or pathology related to her employment elsewhere as a cashier, she did not sustain carpal

tunnel syndrome arising out of and in the course of her employment with St. Vincent Health System, Inc.

Based upon the record as a whole, and without giving the benefit of the doubt to any party, as required by the Act, the following findings of fact and conclusions of law are hereby made:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction of the parties and subject matter of this claim.
2. Pursuant to the stipulations of the parties and the record, the employment relationship existed at all pertinent times and the claimant's average weekly wage was \$303.35.
3. The preponderance of the evidence fails to show that the claimant sustained carpal tunnel syndrome arising out of and in the course of her employment.

DISCUSSION

The claimant was employed as a medical records technician by St. Vincent Health System, Inc., where her job included work in the mail room, work at the fax machine, some filing, and delivering patient charts to doctor's offices as well as returning them to the medical records department. She normally did this by pushing a cart loaded with charts.

After having worked there for about a year, on February 28, 2002, she was pushing her loaded cart toward the medical records doorway and stopped to allow someone else to come in. She then pushed hard on her cart to get started again, but struck a mail cart that was sitting to the left of the doorway. She stated that the impact caused the cart handle to ram back into her stomach and fold her hands backward.

She testified that the incident injured her ring finger and the little finger on her left hand and, after discussing it with her supervisor, she saw a Dr. Stout at the clinic. She said that Dr. Stout had her x-rayed her and then recommended medication and a splint. She stated that she saw Dr. Stout again in about seven days and later saw Dr. Steve Simpson, who referred her to orthopedic surgeon Dr. David M. Rhodes.

Dr. Rhodes first examined the claimant April 18, 2002, and had her undergo nerve conduction testing which showed that she had bilateral carpal tunnel syndrome, more severe on the left, as well as right ring finger stenosing tenosynovitis. On April 26, 2002, he performed surgery, a carpal tunnel release on the left and an unrelated deQuervain's release. The claimant testified that Dr. Rhodes had her off work after the surgery until about May 29, 2002. She further testified that, before the surgery, she was only able to work with her right hand and the remaining fingers of her left hand and that she quit her job.

However, the physician's notes indicate that the claimant has experienced symptoms bilaterally for some time prior to the incident in February, 2002. For example, the April 18, 2002, note from Dr. Rhodes described the claimant as employed as a cashier, who for the past 4+ years has had bilateral hand numbness and also had a three week history of stiffness of the right ring finger, but did not mention the incident with the cart at work. Similarly, the incident with the cart is not mentioned in the rest of the medical record, including the May 10, 2002, note from Dr. Bryan, the May 30, 2002, note from Dr. Rhodes, and the June 14, 2004, note from Dr. Rhodes. There are no medical records from Dr. Stout or Dr. Simpson.

The claimant's testimony indicated that she had indeed worked at Sears and at Krogers where she occasionally was required to operate a cash register or enter data into a computer. The claimant

also testified that before the incident with the cart at work she was having some symptoms in both hands involving burning, tingling, numbness, and sometimes it felt like circulation was cut off. She stated that this happened about once a week and did not cause her to seek medical attention. Nevertheless, when the medical record is reviewed, the preponderance of the evidence shows that her physicians attributed her condition to activity other than the incident at work involving the cart. Under these circumstances, the preponderance of the evidence cannot be said to show that the claimant's carpal tunnel syndrome arose out of and in the course of her employment.

For the foregoing reasons, this request for benefits should be, and it is hereby, respectfully, denied and dismissed.

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge