

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F500021

STEVE CRAWFORD	CLAIMANT
SUPERIOR INDUSTRIES	RESPONDENT
CROCKETT ADJUSTMENT, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED AUGUST 10, 2005

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Springdale, Washington County, Arkansas.

Claimant represented by KENNETH OSBORNE, Attorney, Fayetteville, Arkansas.

Respondents represented by CURTIS NEBBEN, Attorney, Fayetteville, Arkansas.

STATEMENT OF THE CASE

A hearing was held on May 24, 2005, in Springdale, Arkansas.

A pre-hearing conference was held in this claim, and as a result a pre-hearing order was entered in the claim on February 25, 2005. This pre-hearing order set forth the stipulations offered by the parties, the issues to litigate and the contentions thereto.

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

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On October 28, 2004, the relationship of employee-employer-carrier existed between the parties.

3. The claimant is entitled to a comp rate of \$360.00 for temporary total disability and \$270.00 for permanent partial disability.

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

1. Compensability of the claimant's neck, left shoulder, and left carpal tunnel.
2. Related medical.
3. Temporary total disability from December 20, 2004, to a date to be determined.
4. Attorney's fees.

In regard to the foregoing issues the claimant contends that they originally accepted a claim dealing with the claimant's left shoulder problem. After an MRI was performed, they denied all further benefits. Since that time the claimant has had an MRI of his neck and nerve conduction tests in his left arm showing positive results of a bulging disc in his neck and nerve conduction tests in his left arm showing positive results of a bulging disc in his neck and carpal tunnel syndrome in his left wrist. The claimant contends both of these problems are work related injuries. The neck injury occurred when he was moving a mold while reaching over a workstation on October 28, 2004. Lance Gaston and Don Day have refused to let Steve return to work.

In regard to the foregoing issues the respondents contend that no benefits are due.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No. 1. The claimant submitted documentary evidence marked Claimant's Exhibit No. 1. The respondents submitted documentary evidence

marked Respondents' Exhibit No. 1, two form AR-Ns respectively marked Respondents' Exhibit No. 2 and Respondents' Exhibit No. 3, and the Respondents' Incident Investigation and Report marked Respondents' Exhibit No. 4. All of these exhibits were admitted without objection.

#### DISCUSSION

\_\_\_\_\_The claimant testified that he had been working for the respondent for sixteen years and that his last job title was Mold Repair. The claimant explained that he would break down and repair molds. The claimant testified that he would get to work around 6:00 a.m., get instructions from his supervisor as to what he would need to build, he would go get his tools and then start breaking the mold down. The claimant testified that he had to remove four bolts to remove the top plate which weighed approximately sixty pounds. The claimant testified that he would then flip the mold and he would have to knock out twenty-four pins with a hammer and chisel and when that was done remove another six pins with his hammer and chisel. The claimant testified that then he would twist the mold again and take off the latch plate which has four large bolts. The claimant testified that the latch plate weighs about one hundred pounds and he would have to move it off to get it out of the way. The claimant testified that there are six water lines and he would have to take out the center that holds the water lines in place. The claimant testified that he then would take out another plate that is inside the mold itself which has twelve to twenty-four bolts and sometimes he would have to beat them out with

a hammer and chisel. The claimant testified that by now the mold is sitting there bare and he then would put four leg bolts about four inches long and flip the mold over onto a rubber mat and then the mold was ready to go to a sand blaster. The claimant testified that when he first began doing this job they would break down three molds a day but at the time of his injury they were breaking down four molds a day. The claimant testified that there are no machines to do this for him but that he did all these maneuvers manually.

The claimant testified that on October 28, 2004, he had gotten a mold all the way broken down to the last part of putting in the leg bolts. The claimant testified that when he started to flip the mold it twisted on him and that is when he felt a pop and his left side got stiff. The claimant testified that the mold itself is "like a mountain." It is about three feet wide and two feet tall awkward as to its shape and difficult to handle. The claimant testified that he reported his injury immediately to John West, his lead man, and he was seen by Dr. Thorn that day. The claimant testified that Dr. Thorn made x-rays, gave him some muscle relaxers and sent him back to work. The claimant testified that at this time it was his neck and shoulder which were bothering him. Again, the claimant testified that when his neck popped the whole side of his face and left shoulder got stiff and numb. The claimant testified that Dr. Thorn did send him to Dr. Mitchell for treatment of his left shoulder and neck problems. The claimant testified that he had surgery scheduled for his shoulder in January 2005 but

the respondents would not authorize it. The claimant testified that prior to October 28, 2004, he had not had problems with his shoulder nor had he received treatment for his shoulder.

The claimant agreed that he has also made a claim for left carpal tunnel syndrome. The claimant testified that approximately six months before his October 28 injury he began to experience problems with his left wrist. The claimant testified that he reported this to his supervisor and was given an arm band. The claimant stated that he was able to manage pretty well and could continue to work. The claimant testified that his left wrist is weak, he drops things and it stays cold. The claimant testified that in his opinion his left wrist has gotten worse.

The claimant testified that he saw Dr. Davis on December 17, 2004, and that Dr. Davis gave him restrictions as to his left shoulder and neck as well as his left carpal tunnel problems. The claimant agreed that he reported to work with these restrictions which he gave to Dawn. The claimant testified that on December 20, 2004, the respondent told him there was nothing for him to do. The claimant testified that if the respondent would accommodate his restrictions, he would still be working today. The claimant testified that after the respondent send him home, he has looked for work at wal-Mart as well as willis Shaw but no one has given him a job offer.

The claimant testified that while he was being seen by Dr. Miles Johnson he was experiencing muscle spasms in his neck and he

had a nerve conduction test done in regard to his left wrist which he had to pay for since it was not authorized by the respondents.

On cross examination, the claimant agreed that he had a problem with right carpal tunnel syndrome in 1994 for which he underwent surgery. The claimant testified that on October 28, 2004, when he experienced his injury, it was his whole left side that went numb. The claimant further explained that the left side of his face, his shoulder, his left arm and the left side of his neck all went numb. The claimant agreed that for a period of time the respondents did provide him restricted duty but that after his MRI, the decision was made not to accept his claim as compensable. The claimant testified that at the point where his claim was denied, restricted duty was not provided for him and he was sent home. The claimant testified that he has not turned in any of his medical bills to his group carrier nor does he know what his work status is with the respondent. The claimant agreed that on October 28 the only thing he complained about to the respondent was his shoulder and that was also all he reported to Dr. Thorn. The claimant agreed that on December 16 he was taken from the plant by ambulance due to severe numbness in his face. The claimant testified that he had reported to Dr. Mitchell prior to this date that he had problems with numbness in his face and he also had neck problems. The claimant testified that he applied for unemployment benefits as of February 20 and should begin receiving them soon. The claimant explained that when he applied for work at Wal-Mart it was online and that he also talked to a friend of his who is a

manager for Wal-Mart to see if he possibly could get him a job. The claimant testified that no one from Wal-Mart has gotten back to him after he filled out a form online. The claimant agreed that in the past he has undergone treatment for depression. The claimant testified that since he was laid off work in December, he does as much as he can do around the house, further noting that he is still raising Pit Bulls. The claimant agreed that each mold is different but the mechanics for breaking the mold down or assembling the mold is essentially the same for each. The claimant testified that he would tear down at least four molds a day but then he would reassemble four molds so basically he was doing the process at least eight times a day. The claimant testified that he has a highschool education as well as one year of college.

On redirect examination, the claimant testified that the majority of his jobs have been manual labor such as working for Tyson and with the respondent. The claimant testified that with his shoulder and wrist problems as they currently stand he would not be able to perform the work that he had done in the past. The claimant testified that he is not qualified to do any type of desk work and he would like to have surgery to repair his left wrist as well as left shoulder.

On recross examination, the claimant agreed that up until October 28, 2004, he was able to work with his left wrist problem. The claimant testified that his left wrist has continued to be cold and numb, noting that it also wakes him up at night. The claimant

testified that since October 28, 2004, he may have gone fishing once and that he has done a little bit of gardening.

On questioning by the Administrative Law Judge, the claimant testified that the mold itself which he would have to flip over would weigh approximately three hundred and fifty pounds.

The respondents called Dawn Day who testified that she has been employed by the respondent for the past ten years and currently is their benefits supervisor. The claimant testified that she does not have anything to do with workers' compensation benefits. Ms. Day testified that the claimant is currently on medical layoff with the respondent because he did not fill out an FMLA package. This witness testified that the respondent does not provide restricted duty work for employees which they consider to have non work related injuries or illnesses. Ms. Day testified that a medical layoff with the respondent entitles the claimant to twelve months to recuperate from an injury and still be able to return to work.

On cross examination, Ms. Day testified that in December the claimant reported for work but that because his workers' comp claim had been denied, no restricted duty work was offered to him.

The medical records set forth that the claimant was diagnosed with right carpal tunnel syndrome on February 17, 1994. The medical records set forth that the claimant was treated conservatively with chiropractic care for several months for his carpal tunnel. On September 16, 2003, the claimant was seen with complaints of his right leg swelling following a four-wheel

accident. The claimant was seen at the clinic on September 25, 2003, with complaints of neck and right leg pain but no treatment is indicated. On November 11, 2003, the claimant was again seen for complaints of right leg problems, night sweats and left wrist pain. The claimant was treated for a right leg hematoma.

The claimant was seen by Dr. Garland Thorn on October 28, 2004, following an injury to his left shoulder when pulling and turning a wheel mold. The claimant was released to return to work with the restrictions of no use of his left arm. The claimant was seen the next day at the clinic with complaints of left shoulder snapping while lifting heavy wheels the day before. It is further noted that the claimant has normal range of motion in his neck but his neck is tender. Medications were prescribed and he received an injection. The claimant was seen by Dr. Thorn on November 5, 2004, for his continued complaints of left shoulder pain. Dr. Thorn recommended an MRI and released the claimant to return to work with no use of his left arm and to wear a sling. The claimant underwent an MRI of his left shoulder on November 10, 2004, which revealed that he had degenerative changes of the acromioclavicular joint without significant mass effect as well as arthritic change in bone marrow edema indicative of acute inflammation involving the acromioclavicular joint. The claimant was seen by Dr. Thorn the next day and again the doctor released him to return to work with no use of his left arm as well as to use his sling and referred him to Dr. Mitchell. Dr. Mitchell writes on November 22, 2004, that he has seen the claimant for an injury to his left shoulder which the

claimant reports happened at work. Dr. Mitchell writes that the claimant's symptoms are consistent with an AC problem and he injected him with Depo-Medrol and Lidocaine. Dr. Mitchell continued the claimant with light duty work. Dr. Mitchell wrote an addendum to his November 22, 2004, report setting forth that the claimant reports a lot of numbness in his hand and wrist as well as pain. The claimant further reports to the doctor that this pain radiates up his arm and the doctor ordered an NCV. Dr. Mitchell writes on January 5, 2005, that the claimant had an episode of numbness involving his left arm and went to the emergency room. Dr. Mitchell notes that the claimant had an MRI of his head and neck. Dr. Mitchell writes that based on the claimant's test he has moderately severe carpal tunnel syndrome on the left and AC arthropathy on the left and that he also has some osteophyte formations in his neck that are causing some radiculopathy. Dr. Mitchell recommended that the claimant undergo a distal clavicle resection and a carpal tunnel release on the left.

The claimant was referred to Dr. Miles Johnson by Dr. Mitchell and the claimant was evaluated and examined by Dr. Johnson on December 14, 2004. After examination and review of the claimant's tests, Dr. Johnson assessed the claimant with left carpal tunnel syndrome as well as probable left C5 and or C6 radiculopathy being unsure as to which level to place the lesion since the paraspinal examination was limited by the presence of spasm. Dr. Johnson recommended that the claimant have further testing on his cervical spine to rule out a herniated disc. Dr. Johnson recommended that

the claimant use splints at night for his carpal tunnel. Dr. David Davis writes on December 17, 2004, that he has seen the claimant for his complaints of left neck and shoulder pain as well as numbness in his face, left arm and left leg. In a letter from Dr. Davis to Dr. Thorn, Dr. Davis mentions an MRI of the claimant's cervical spine revealing at C5-6 a small annular protrusion on the left, left C6 neuroforaminal narrowing, noting that there is not definite neural impingement although it really could not be excluded. Dr. Davis opines that the claimant's left shoulder pain is arthropathic and that radiculopathy cannot be excluded. Dr. Davis notes that the claimant's left shoulder-neck pain is job related as well as his left carpal tunnel syndrome. Dr. Davis released the claimant to return to work with restrictions, prescribed medication and set a return appointment.

After a review of this entire record, I find that the claimant has proven by a preponderance of the evidence that he sustained a compensable injury to his left shoulder while working for the respondent on October 28, 2004. I also find that the claimant has proven by a preponderance of the evidence that he sustained left carpal tunnel syndrome doing repetitive work with his hands while working for the respondent. The claimant's MRI of his left shoulder sets forth that the claimant has degenerative problems in his shoulder and an NCV of the claimant's left wrist sets forth mild to severe left carpal tunnel syndrome. The claimant's testimony as to the type work which he did for the respondent was both rapid repetitive as well as involving lifting or flipping

heavy molds resulting in his injuries and need for medical treatment. The respondents, therefore, should pay for the treatment of this claimant's compensable injury to his left shoulder and his left carpal tunnel syndrome.

I further find that the claimant has proven by a preponderance of the evidence that he sustained a compensable injury to his neck on October 28, 2004, while working for the respondent. The early report on October 29, 2004, sets forth that the claimant's neck was tender and Dr. Davis does note muscle spasm as well as a protrusion at C5-6. Dr. Davis relates the claimant's neck problems as well as his shoulder and left carpal tunnel problems as being job related. The respondents, therefore, should pay for the medical treatment for this claimant's left shoulder, neck and left carpal tunnel. The respondents also should pay temporary total disability from December 20, 2004, to a date to be determined.

#### FINDINGS & CONCLUSIONS

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.
2. On October 28, 2004, the relationship of employee-employer-carrier existed between the parties.
3. The claimant is entitled to a comp rate of \$360.00 for temporary total disability and \$270.00 for permanent partial disability.
4. The claimant has proven by a preponderance of the evidence that he sustained a compensable injury to his neck and left

shoulder while working for the respondent on October 28, 2004. See discussion above.

5. The claimant has proven by a preponderance of the evidence that his left carpal tunnel syndrome is a result of his work for the respondent. See discussion above.

6. The respondents should pay for the medical treatment for this claimant's compensable injuries.

7. The respondents should pay temporary total disability to this claimant from December 20, 2004, to a date to be determined.

8. The respondents have controverted this claim in its entirety.

9. The claimant's attorney is entitled to the maximum statutory attorney's fee based on the benefits awarded herein.

#### ORDER

The claimant has proven by a preponderance of the evidence that he sustained left carpal tunnel syndrome while working for the respondent as well as compensable injuries to his left shoulder and neck while working for the respondent on October 28, 2004.

The respondents should pay for all reasonable and related medical treatment for this claimant's left shoulder, neck and left carpal tunnel.

The respondents should pay temporary total disability to this claimant from December 20, 2004, to a date to be determined.

The respondents shall pay to the claimant's attorney the maximum statutory attorney's fee on the additional benefits awarded herein, with one half of said attorney's fee to be paid by the

respondents in addition to such benefits and one half of said attorney's fee to be withheld by the respondents from such benefits.

All benefits herein awarded which have heretofore accrued are payable in a lump sum without discount.

This award shall bear the maximum legal rate of interest until paid.

IT IS SO ORDERED.

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ELIZABETH DANIELSON  
ADMINISTRATIVE LAW JUDGE