

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F203687**

**CAROLYN JENKINS, EMPLOYEE**

**CLAIMANT**

**COOPER STANDARD AUTOMOTIVE, INC.,  
SELF-INSURED EMPLOYER**

**RESPONDENT**

**CROCKETT ADJUSTMENT, TPA**

**RESPONDENT**

**OPINION FILED AUGUST 31, 2005**

Hearing before Administrative Law Judge J. Mark White on July 21, 2005, in El Dorado, Union County, Arkansas.

Claimant appeared *pro se*.

Respondents represented by Mr. Michael J. Dennis, Attorney at Law, Pine Bluff, Arkansas.

**STATEMENT OF THE CASE**

On July 21, 2005, the above-captioned claim came on for a hearing in El Dorado, Arkansas. A pre-hearing conference was conducted on May 23, 2005, and a Prehearing Order was entered that same day. A copy of the May 23, 2005, Prehearing Order has been marked as Commission Exhibit No. 1 and made a part of the record herein without objection. At the hearing, the parties confirmed that the stipulations, issues, and respective contentions, as amended, were properly set forth in the Prehearing Order.

The parties stipulated that the Arkansas Workers' Compensation

Commission has jurisdiction of this claim; that the employee/self-insured employer relationship existed at all relevant times, including March 16, 2002; that on March 16, 2002, the claimant sustained a compensable injury to her right ankle; that respondents accepted the March 16, 2002, ankle injury as compensable and paid benefits, including a permanent impairment rating of 7%; that the Commission granted the claimant a change of physician to Dr. Bud Dickson on October 6, 2003; and that the claimant earned wages sufficient to entitle her to a weekly compensation rate of \$419 for total disability benefits and \$314 for permanent partial disability benefits.

The issues to be presented for determination were defined as follows: whether the claimant sustained a compensable consequence of her March 16, 2002, ankle injury in the form of a back injury; whether the claimant is entitled to temporary disability benefits; and whether additional medical treatment is reasonably necessary in connection with a compensable injury.

The claimant contends that she sustained an injury to her low back as a compensable consequence of her March 16, 2002, compensable injury; that she is entitled to medical treatment for her back; that she is entitled to additional medical treatment, specifically an MRI and CT scan, for her ankle; and that she is entitled to temporary disability benefits for the days in which she was sent home by the

respondent when no light-duty work was available.

The respondents contend that the claimant's back complaints are not related to her compensable injury; that the claimant cannot prove by a preponderance of the evidence that her back pains are related to the compensable injury; that the claimant cannot produce medical evidence, stated to a reasonable degree of medical certainty, that her back condition is related to her compensable injury; and that there are no objective findings which can be related to the compensable injury to support a claim for a back injury.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing 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 hereby made in accordance with Ark. Code Ann. § 11-9-704:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The stipulations agreed to by the parties are reasonable and are hereby accepted as fact.

3. The claimant has failed to prove by a preponderance of the evidence a causal connection between her low back problems and her compensable injury.
4. The claimant has therefore failed to prove by a preponderance of the evidence that her back pain is a compensable consequence.
5. The claimant has failed to prove by a preponderance of the evidence that additional medical treatment for her back is reasonably necessary in connection with the compensable injury.
6. The claimant has proven by a preponderance of the evidence that she is entitled to temporary partial disability benefits in the amount of \$1,005.60.
7. The respondents have controverted all benefits sought herein.

## **DISCUSSION**

### **I. History**

The claimant sustained an injury to her ankle while operating a piece of equipment. The respondents accepted her injury as compensable and paid benefits. She was treated by Dr. D'Orsay Bryant, and Dr. Bryant eventually performed surgery, an open reduction internal fixation of the right ankle. The claimant reported improvement from the surgery, and on May 27, 2003, Dr. Bryant assigned the claimant a permanent impairment rating of 7 percent to the lower extremity,

which rating the respondents paid. In his treatment note of that date, Dr. Bryant noted that the claimant was complaining of low back pain. The claimant testified that this low back pain developed because of the limp caused by her ankle injury. She testified that her medical providers told her that this back pain was connected to her limp, but the claimant failed to introduce any written reports or records from these providers.

The claimant sought and received a change of physician to Dr. D. Bud Dickson. Dr. Dickson continued to treat the ankle, eventually performing surgery to remove the hardware implanted by Dr. Bryant. Dr. Dickson also treated the back pain, ordering x-rays and an MRI which revealed degenerative changes. Dr. Dickson opined that the low back problems pre-existed the ankle injury and that the low back pain was not related to the claimant's compensable injury.

## **II. Adjudication**

### **A. Compensable Consequence**

If an injury is compensable, then every natural consequence of that injury is also compensable, including injuries from medical treatment. *Air Compressor Equipment v. Sword*, 69 Ark. App. 162, 11 S.W.3d 1 (2000). The basic test is whether there is a causal connection between the two episodes. *Id.*

The claimant alleges a causal connection between her low back pain and her compensable ankle injury. But the only evidence she offers in support is her own testimony, and hearsay statements from her medical providers. The claimant has introduced no independent medical evidence to support her allegations. The respondents, on the other hand, have introduced Dr. Dickson's written opinion that the low back problems are not related to the compensable injury.

Given this evidence, I must find that the claimant has failed to prove by a preponderance of the evidence a causal connection between her low back problems and her compensable injury. The claimant has therefore failed to prove by a preponderance of the evidence that her back pain is a compensable consequence. Given this finding, I also find that the claimant has failed to prove by a preponderance of the evidence that additional medical treatment for her back is reasonably necessary in connection with the compensable injury.

Although the claimant initially identified as an issue her entitlement to continued medical treatment for her ankle, the parties agreed at the hearing that the respondents are still providing medical treatment for the ankle injury.

## **B. Temporary Disability Benefits**

An employee is entitled to temporary partial disability benefits when her average weekly wage has decreased as a result of her compensable injury. ARK. CODE ANN. § 11-9-520.

The claimant was on light duty for some time following her first surgery, and the respondents provided her with light-duty work. However, the claimant testified that on twelve days, she was sent home without pay because there was no light-duty work available that day. The twelve days are itemized on a payroll record produced by the respondent-employer and introduced herein as Claimant's Exhibit Number 1. The respondents have introduced no evidence to show that the claimant was paid for these twelve days.

I find that the claimant has proven by a preponderance of the evidence that she was on light-duty for these twelve days as a result of her compensable injury, and that she was not paid for these twelve days. The claimant would not have been on light duty were it not for her compensable injury. Given this evidence, I find that the claimant has proven by a preponderance of the evidence that her average weekly wage decreased as a result of her compensable injury. The claimant was not paid for 12 days, or 2.4 weeks. Multiplying 2.4 weeks by her total disability compensation rate, results in a total income loss (as adjusted by the 66 2/3% limit)

of \$1,005.60. I find that the claimant has proven by a preponderance of the evidence that she is entitled to temporary partial disability benefits in the amount of \$1,005.60.

**AWARD**

The claimant has proven by a preponderance of the evidence that she is entitled to temporary partial disability benefits in the amount of \$1,005.60. The respondents are hereby directed and ordered to pay benefits in accordance with the findings of fact and conclusions of law set forth herein.

All accrued sums shall be paid in a lump sum without discount, and this award shall earn interest at the legal rate until paid pursuant to Ark. Code Ann. § 11-9-809.

**IT IS SO ORDERED.**

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**HON. J. MARK WHITE**  
Administrative Law Judge