

**BEFORE THE ARKANSAS WORKERS' COMPENSATION
COMMISSION**

CLAIM NO. F108608

JIMMY T. KNIGHT, EMPLOYEE	CLAIMANT
CEDAR CHEMICAL CORPORATION, EMPLOYER	RESPONDENT NO. 1
ZURICH AMERICAN INSURANCE COMPANY/ CRAWFORD & COMPANY (TPA), INSURANCE CARRIER	RESPONDENT NO. 1
DEATH AND PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION FILED APRIL 7, 2005

Hearing before Administrative Law Judge Cynthia Estes Rogers on January 7, 2005, in Helena, Phillips County, Arkansas.

Claimant represented by Mr. Charles P. Allen, Attorney at Law, West Helena, Arkansas.

Respondents No. 1 represented by Mr. Lawrence W. White, Attorney at Law, Memphis, Tennessee.

Respondent No. 2, the Death and Permanent Total Disability Trust Fund, waived appearance at the hearing, as their issues were not ripe for consideration.

A hearing was held on January 7, 2005, to determine the compensability of the claim filed herein.

The parties stipulated to the existence of the employee-employer relationship on July 1, 2001. It was further stipulated that claimant was earning sufficient wages

to entitle him to weekly indemnity benefits of \$392.00 for temporary total disability and \$294.00 for permanent partial disability benefits.

Claimant amends his contentions as noted in the Prehearing Order filed November 1, 2004, to contend that he sustained a compensable injury to his left knee on July 1, 2001, rather than July 2, 2001. July 2, 2001, was the date claimant contends he reported his injury. Claimant contends that he is entitled to temporary total disability benefits from July 1, 2001, through a date yet to be determined, as well as attendant medical benefits and attorney's fees. Claimant requests that the issue of permanency be held in abeyance.

Respondents No. 1 controvert this claim in its entirety, contending that claimant did not sustain a specific trauma associated with his employment and that any injury he did sustain was not the major cause of his condition.

Respondent No. 2, being implicated only in the event that the claim is found to be compensable and permanent and total disability is sought, contends that respondents No. 1 must first pay permanent partial disability in the form of anatomical ratings for the claimant's compensable injury before payment of permanent total disability benefits. Additionally, respondent No. 2 contends that respondents No. 1 would not then be entitled to a credit against its \$75,000.00 maximum for payment of claimant's permanent partial anatomical ratings for the compensable injury. As stated above, because the issue of permanency was held in abeyance, respondent No. 2

waived its appearance at the hearing in this matter as the issues involving it were not ripe at that time.

STATEMENT OF THE CASE

Claimant is a fifty-five-year-old man who had been employed with respondent-employer for about five years when he alleges that he sustained an injury. Claimant testified that on July 1, 2001, he felt discomfort in his left knee after walking up and down the stairs several times, which is required as part of his work on what is called “Unit 6,” of respondent-employer, where certain chemical products are formulated and manufactured to be shipped to other locations. Claimant described Unit 6 as having four floors and that each floor consisted of a different job as part of the manufacturing of the particular chemical that was being developed and that, as part of his job, he would be required to make approximately twelve round trips up and down the stairs of the floors of Unit 6 during any given twelve-hour shift. His supervisor at the time, Johnny Vincent, who testified on behalf of respondents, verified this in his testimony.

Claimant testified that on the date of his alleged injury, he was involved in working a twelve-hour shift and had worked twelve-hour shifts at least two days prior to July 1, 2001. He testified that on that date, he was the only person working in Unit 6, which would normally have at least one other person to help work the computers and turn valves, etc. Claimant testified that on that date, he was constantly having to

go up and down the stairs of the Unit, twisting and turning, and making 180-degree turns as he ascended and descended the four floors of the Unit.

Claimant testified that he had arrived at work that morning at approximately 6:30 a.m. and had continued working until approximately 10:00 or 11:00 a.m., when he started feeling discomfort and pain in his left knee. He testified that he went on his thirty-minute lunch break at approximately 2:00 p.m. but that he could hardly get out of his chair at the end of the lunch break and that he had to use a bicycle to help push himself back to his Unit.

Claimant testified that he told his supervisor, Johnny Vincent, so Johnny allowed him to do paperwork until his shift was over. He testified that the next day, he went to his employer and announced he was going to the doctor. He testified that he saw Dr. Scott Hall, his family physician, who is also respondent-employer's company doctor. Dr. Hall referred claimant to Dr. John Wilson, a knee surgeon from Little Rock, who was going to be in Helena that day. He was then sent to Little Rock for an MRI. Claimant testified that following the MRI, Dr. Wilson recommended arthroscopic surgery.

Claimant admitted that he had experienced a previous knee injury while playing softball – not associated in any way with his employment for respondent-employer. Claimant further admitted that about one or two months prior to the July 1, 2001, alleged incident, he had hyper-extended his left knee. He testified that he

told his supervisor this, but that claimant felt he was okay, so they did not write up a report about it. Claimant admitted that in 1999, he had filed a workers' compensation claim for a ruptured disk, and back surgery was performed. He testified, however, that from then until July 1, 2001, he had never missed any work for any work-related injuries.

Claimant's wife of thirty-seven years, Shirley Knight, testified that when claimant left for work on the morning of July 1, 2001, he was fine, but that she observed him having trouble getting out of his car and up the steps of their porch when he returned from work that day. She testified that after he was released after having surgery following his softball left-knee injury, he never had any real problems with that knee.

The x-rays and MRI taken shortly after the alleged date of injury revealed extensive degenerative disease, calcification of the medial collateral ligament at the joint line, total disruption of the anterior cruciate ligament with extensive degenerative signal, and a posterior horn tear and maceration of the joint of the medial meniscus. Dr. Wilson recommended arthroscopy, which was eventually performed on October 17, 2001, by Dr. Herbert Hahn. Following surgery, claimant suffered a joint infection and was recommended for total knee replacement surgery.

Dr. Hahn opined in a letter written October 16, 2002, to claimant's attorney as follows:

The acute injury of the torn medial meniscus that prompted Mr. Knight's surgery on 10-17-01 represents more than 50% of his current problem. It was also this surgery that precipitated the joint infection which is a great part of his current impairment. He will continue to require frequent visits to an orthopedist until such time as he under goes total knee replacement surgery, and then he will continue to require management after that, all related to recent injury.

Dr. Wilson had previously opined on July 2, 2001, the day after claimant's alleged injury, as follows:

Mr. Knight has had in years past an arthrotomy for medial collateral ligament repair. This is felt to be less than 50% of his current problems.

Claimant testified at the hearing that Dr. Hahn had not, as of that date, released him to return to work. Claimant testified that his private health insurance has paid for all of his medical care and treatment. Claimant testified that he receives approximately \$1,335.00 per month from Social Security Disability. His total monthly income is approximately \$1,770.00, the difference representing the amount he receives from long-term disability.

FINDING OF FACT

Claimant has failed to prove by a preponderance of the evidence that he sustained a compensable injury arising out of and during the course and scope of his employment on July 1, 2001.

DISCUSSION

The fact that claimant has sustained a knee injury and has required surgery that resulted in an infection is substantially undisputed. The question, however, is a legal one as to whether there was a specific incident of trauma caused by claimant's work, or whether this was an idiopathic injury – one personal to the claimant. In this examiner's opinion, there is no proof of a specific incident of trauma caused by claimant's work.

Claimant has the burden of proving his compensable injury by a preponderance of the evidence. Ark. Code Ann. § 11-9-102(4)(E)(I) (Repl. 2002). A compensable injury is one arising out of and in the course of employment. Ark. Code Ann. § 11-9-102(4)(A)(I) (Repl. 2002). Arkansas Code Annotated Section 11-9-102(4)(D) provides that a compensable injury must be established by medical evidence supported by objective findings. Objective findings are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. § 11-9-102(16); *Carman v. Haworth, Inc.*, 74 Ark. App. 55, 45 S.W.3d 408 (2001). In order to prove a compensable injury the claimant must prove, among other things, a causal relationship between his employment and the injury. *Wal-Mart Stores, Inc. v. Westbrook*, 77 Ark. App. 167, 72 S.W.3d 889 (2002).

The Arkansas Supreme Court has held that an idiopathic injury is one whose cause is personal in nature, or peculiar to the individual. *See Kuhn v. Majestic Hotel*,

324 Ark. 21, 918 S.W.2d 158 (1996); *Little Rock Convention & Visitors Bur. v. Pack*, 60 Ark. App. 82, 959 S.W.2d 415 (1997); *Moore v. Darling Store Fixtures*, 22 Ark. App. 21, 732 S.W.2d 496 (1987). Injuries sustained due to an unexplained cause are different from injuries where the cause is idiopathic. *ERC Contractor Yard & Sales v. Robertson*, 335 Ark. 63, 977 S.W.2d 212 (1998). Where a claimant suffers an unexplained injury at work, it is generally compensable. *Little Rock Convention & Visitors Bur.*, *supra*. Because an idiopathic injury is not related to employment, it is generally not compensable unless conditions related to the employment contribute to the risk by placing the employee in a position which increases the dangerous effect of the injury. *Id.* Employment conditions can contribute to the risk or aggravate the injury by, for example, placing the employee in a position which increases the dangerous effect of a fall, such as on a height, near machinery or sharp corners, or in a moving vehicle. *Id.*

In this case, claimant relies on the 2004 Arkansas Court of Appeals case of *Crawford v. Single Source Transp. Ins.*, CA 03-1325 (Ark. App. 6-30-2004), wherein the Court of Appeals reversed this Commission's finding that appellant suffered a noncompensable idiopathic injury when he fell from his employer's vehicle as he was attempting to exit the vehicle from an elevated position. The *Crawford* case, however, is factually distinguishable from the case at bar.

In *Crawford*, the claimant was injured when stepping out of his truck off of two steps onto uneven ground, when his knee gave out or buckled and he began to feel pain in his knee. The Court therein ultimately held that the work conditions – in that case, the step off of the truck onto the ground – contributed to the injury and, therefore, held it to be a compensable work injury rather than an idiopathic one. The Court reasoned that because it found the injury to have been *caused* by the step off of the truck and onto the ground, the injury was not an “unexplained” one.

In this case, there is no evidence, medical or otherwise, in the record that the work conditions requiring the act of walking up and down steps at respondent-employer *caused* or aggravated claimant’s knee condition. The medical records are, however, replete with information that suggests claimant’s knee injuries were, in fact, degenerative and personal in nature. Moreover, claimant’s testimony was that after working half a day on July 1, 2001, he began to feel discomfort in his knee, sat down to lunch, and had significant knee pain thereafter. There was no testimony of a specific incident of trauma. Likewise, the medical records indicate no specific injury on July 1, 2001.

While there is no doubt that claimant does, indeed, have legitimate, medically-diagnosed left knee problems, claimant has failed, in this examiner’s opinion, to causally link those knee problems to any work-related injury having occurred on July 1, 2001. Further, while Dr. Hahn opined that the problems revealed on the MRI

following July 1, 2001, represent more than 50 percent of claimant's current problems, there is no medical opinion given as to the *etiology* of the claimant's knee problems manifesting on July 1, 2001, and whether claimant's knee problems were, in fact, causally-related to his employment with respondent-employer.

In this examiner's opinion, this is a classic, non-compensable idiopathic injury, the symptoms of which coincidentally began to manifest themselves while claimant was at work as opposed to an injury *caused* by claimant's work at respondent-employer. The symptoms of claimant's personal knee problem could have just as easily manifested themselves while the claimant was at home, and the fact that they manifested while claimant was at work does not, in and of itself, render this a compensable claim.

For all of the above-stated reasons, this claim is respectfully denied and dismissed.

IT IS SO ORDERED.

CYNTHIA ESTES ROGERS
Administrative Law Judge