

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F408473

JOHN LUPTON, Employee

CLAIMANT

UNIVERSITY OF ARKANSAS, Employer

RESPONDENT

PUBLIC EMPLOYEE CLAIMS DIVISION, Carrier

RESPONDENT

OPINION FILED APRIL 21, 2005

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by JASON HATFIELD, Attorney, Fayetteville, Arkansas.

Respondents represented by RICHARD S. SMITH, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On April 7, 2005, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on December 22, 2004, and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked Commission's Exhibit #1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The relationship of employee-employer existed between the parties at all relevant times.
3. The claimant sustained a compensable injury to his back on May 14, 2004.
4. The claimant was earning an average weekly wage of \$493.31 which would entitle him to compensation at the weekly rates of \$329.00 for total disability benefits and \$247.00 for permanent partial disability benefits.

At the pre-hearing conference the parties agreed to litigate the following issues:

1. Whether claimant's subsequent back condition in the form of a hematoma is

causally related to the compensable injury.

2. Temporary total disability benefits from June 21, 2004 through October 29, 2004.
3. Related medical.
4. Attorney fee.

The claimant contends that his subsequently diagnosed hematoma is causally related to his original compensable injury of May 14, 2004. Claimant requests medical treatment, temporary total disability benefits from June 21, 2004 through October 29, 2004, and a controverted attorney fee.

The respondents' contentions as set forth in their pre-hearing questionnaire are as follows: "Respondents contend that the hematoma of the claimant's right latissimus dorsi, or paraspinous muscles, is not a compensable condition. The medical evidence does not link the hematoma to the claimant's compensable back strain; in fact, on July 16, 2004 Dr. Moffitt stated that 'Certainly this injury from the 14th of May did not cause any type of bleeding disorder...'"

From a review of 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 witness and to observe his demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on December 22, 2004, and contained in a pre-hearing order filed that same date, are hereby accepted as fact.
2. Claimant has failed to prove by a preponderance of the evidence that his hematoma is causally related to his compensable injury of May 14, 2004.

FACTUAL BACKGROUND

The claimant has been employed by the respondent for 29 years as a building equipment maintenance repairman/carpenter. On Friday, May 14, 2004, the claimant was in the process of helping move a large table when he felt a burning sensation in the right side of his lower back. Claimant testified that over the weekend his back pain continued to worsen and he did not go to work on Monday. On Tuesday, May 18, 2004, claimant went to work, requested medical treatment, and was sent to Dr. Moffitt. Dr. Moffitt took an x-ray and diagnosed claimant's condition as a muscular lumbar strain superimposed on degenerative disc disease and osteoarthritis. Dr. Moffitt gave claimant an injection and returned him to work with limitations. Claimant's next visit with Dr. Moffitt occurred on May 25, 2004. At that time Dr. Moffitt noted that claimant's condition had improved, that claimant was walking normally, there was no tenderness to palpation, no muscle tightness, spasm, or guarding. Dr. Moffitt also noted that claimant had normal reflexes, straight leg raising, and gait. Dr. Moffitt released the claimant to return to work at full duty with no return appointment and no permanent impairment.

The claimant has a history of suffering from hepatitis C and in 2004 he was receiving treatment from Dr. Rogers for that condition. On June 15, 2004, claimant returned to Dr. Rogers and was complaining of back pain and stated that he had noticed swelling in the right side of the paraspinal muscle group. Dr. Rogers indicated that the etiology of claimant's back condition was unclear and ordered an ultrasound and CT scan. The ultrasound revealed a cyst compatible with an intramuscular hematoma.

Following the discovery of the hematoma claimant again returned to Dr. Moffitt who prescribed medication and work restrictions. Claimant continued to be evaluated by Dr. Moffitt and Dr. Moffitt eventually referred claimant to a surgeon, Dr. Burton. Claimant was treated conservatively by Dr. Burton for the hematoma in an effort to allow it to resolve on its own. The hematoma did not resolve on its own, but instead enlarged and became

infected. As a result, Dr. Burton performed surgery to remove the infected hematoma on July 24, 2004.

Claimant has filed this claim contending that the hematoma is causally related to his compensable injury of May 14, 2004. He seeks payment of medical treatment, temporary total disability benefits, and a controverted attorney fee.

ADJUDICATION

When an injury arises out of and in the course of employment, the employer is liable for every natural consequence which flows from the injury. *McDonald Equipment Company v. Turner*, 26 Ark. App. 264, 766 S.W. 2d 936 (1989). When subsequent complications are the natural and probable result of the original injury, the employer remains liable. The basic test is whether there is a causal connection between the two episodes. *Bearden Lumber Company v. Bond*, 7 Ark. App. 65, 644 S.W. 2d 321 (1983). The determination of whether a causal connection exists is a question of fact for the Commission. *Carter v. Flintrol, Inc.*, 19 Ark. App. 317, 720 S.W. 2d 337 (1986).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has failed to prove by a preponderance of the evidence that a causal connection exists between the hematoma and his injury on May 14, 2004.

First, I believe it is important to note that although claimant at some point gave a history to Dr. Moffitt and to his other physicians that his swelling had begun at the time of his back injury on May 14, 2004, that history is not supported by the medical evidence. A review of Dr. Moffitt's medical report of May 18, 2004 indicates that Dr. Moffitt observed no areas of swelling in the claimant's low back. Furthermore, at the time of Dr. Moffitt's examination on May 25, 2004, no swelling was noted and according to Dr. Moffitt's medical report the claimant's examination was essentially normal and his condition greatly

improved. In fact, Dr. Moffitt released the claimant to return to full duties with no return appointment scheduled. It should be noted that Dr. Moffitt's report of June 17, 2004 indicates that claimant had a little bit of swelling at the beginning of his injury. However, it appears that this notation was a recitation of a history given to Dr. Moffitt by the claimant. As previously noted, Dr. Moffitt's initial medical report of May 18, 2004 indicated that no swelling was present at that time and there was no notation of swelling at the time of his examination on May 25, 2004.

In support of his contention that his hematoma is causally related to his compensable injury, claimant relies upon blood work testing indicating that shortly before the incident no infection was present while shortly after the incident blood testing indicated that an infection had set in. Even though the medical evidence does indicate that claimant did not have an infection prior to May 14, 2004, claimant still has the burden of proving by a preponderance of the evidence that the infection is causally related to the work-related injury. Here, none of the physicians who have treated claimant have indicated that the hematoma was in any way causally related to the incident of May 14, 2004. To the contrary, Dr. Rogers in his report of June 15, 2004 indicated that the etiology of claimant's back condition was unclear. Furthermore, Dr. Moffitt in his report of June 21, 2004 stated:

I don't know exactly what is going on at this time. I am wondering if he has some type of a bleeding disorder, possibly in relation to the hepatitis-C or the Interferon treatment or both.

In a subsequent report dated July 16, 2004, Dr. Moffitt referred claimant to a hematologist for an evaluation and stated:

Certainly, this injury from the 14th of May did not cause any type of a bleeding disorder, and Mr. Lupton does have some other chronic conditions that could be affecting his bleeding.

In contrast to the reports of Rogers and Moffitt, I note there are no medical reports indicating that any of the claimant's treating physicians have opined that claimant's hematoma is causally related to the injury of May 14, 2004.

In short, claimant has the burden of proving by a preponderance of the evidence that his hematoma is causally related to the injury which occurred on May 14, 2004. While the hematoma did not occur until after that incident, I find insufficient evidence establishing a causal connection between the hematoma and the May 14 injury. Dr. Rogers indicated that the etiology of claimant's back condition was unclear. Furthermore, Dr. Moffitt has opined that the May 14 injury did not cause any bleeding disorder. On the other hand, no treatment physician has opined that a causal relationship exists. Given this evidence, I find that claimant has failed to prove by a preponderance of the evidence that the hematoma is causally related to the injury of May 14, 2004.

ORDER

Claimant has failed to prove by a preponderance of the evidence that a causal connection exists between his hematoma and his compensable back injury of May 14, 2004. Therefore, his claim for compensation benefits is hereby denied and dismissed.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE