

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F412823

WILLARD WORKMAN, EMPLOYEE	CLAIMANT
HARRIS FORD, SELF-INSURED EMPLOYER	RESPONDENT
RISK MANAGEMENT RESOURCES, TPA	RESPONDENT

OPINION FILED AUGUST 26, 2005

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on July 28, 2005, at Newport, Jackson County, Arkansas.

Claimant represented by the HONORABLE JAMES A. McLARTY, III, Attorney at Law, Newport, Arkansas.

Respondent represented by the HONORABLE MELISSA ROSS CRINER, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted in the above-styled claim to determine the claimant's entitlement to workers' compensation benefits.

On June 28, 2005, a pre-hearing conference was conducted in this claim, from which a Pre-hearing Order of the same date was filed. The Pre-hearing Order reflects stipulations entered by the parties, the issues to be addressed during the course of the hearing, and the parties' contentions relative to the issues. The Pre-hearing Order is herein designated a part of the record as Commission Exhibit #1.

The testimony of Willard Workman, the claimant; Ricky Hardin, along with the July 13,

2005, deposition testimony of Dr. Phillip Snodgrass, coupled with medical reports and other documents comprise the record in this claim.

DISCUSSION

Willard C. Workman, Jr., the claimant, with a date of birth of February 25, 1954, has a ninth grade education. Claimant commenced his employment with respondent on November 9, 1998, as a technician/mechanic. Prior to his employment by respondent, claimant worked for eighteen at another Ford dealer, Snap Motor Company, in Walnut Ridge, Arkansas. Claimant performed basically the same job duties at his former employer as he did for respondent.

Regarding his job duties, the testimony of the claimant reflects that he performed automotive repair work on engines and components of automobiles. Claimant has performed automotive repair work all of his adult working life. Claimant's testimony reflects that to his knowledge before the date that he hurt himself while work for respondent on October 15, 2004, he was in good health.

The testimony of the claimant reflects that the day he was hurt performing job duties for respondents was a Friday. Claimant's testified that he was taking brake calipers off of a big truck, Ford F-550 Dually, at the time of the injury. Claimant described a "caliper" as a piston that closes the brakes from the rotor when one engage the brake pedal on a big truck. Claimant explained that in order to work on the brake caliper he had to remove them; the calipers are secured by two large bolts on each side of each rear wheel of the truck on the rear calipers. In order to get to the calipers the tires have to be removed as does the steel rims that the fires fit on. Once the wheel is removed a large socket with a brake overbar is used to loosen the large bolt. Claimant also utilized an extension bar or pipe over the brake overbar in order gain more

leverage in loosen the bolt or manually break the torque/tension.

The testimony of the claimant also noted that the truck was suspended up on a rack.

Regarding the afore, claimant explained:

So you put it in that air. You can't get an impact or nothing on it so you've got to pull down on it. (T. 15).

Claimant observed that with the truck on the rack in the air, the nuts on the bolt of the caliper is at his chest level. Claimant estimates his height at 5'6" tall and weight at 180 pounds.

The testimony of the claimant reflects that he was working on the caliper on the driver's side of the vehicle at the time he sustained his injury. Claimant explained that he could either push up or pull down on the tool, depending on the amount of room in which he had to work, in attempting to remove the bolt. The testimony of the claimant reflects that he started the job on the driver's side of the truck. Claimant testified that he was not able to break the torque on the first nut while working alone. Claimant later got a length of pipe, commonly referred to as a "cheater bar", in an effort to gain greater leverage in loosening the bolt.

Claimant testified that while he was able to get the first bolt out by himself, he had to get help to get the other. Claimant estimates that it took him from 20-30 minutes to get the first bolt out by himself. Claimant's testimony reflects that he accomplished the afore in increments, applying force, using the extension pipe/cheater bar, and straining with all the force he could muster. Claimant explained that during the course of the 20-30 minutes of removing the first nut/bolt he found it necessary to stop and take a break because, "it was giving me out." (T. 20).

Claimant's testimony reflects that typically he finds that in manufacturing process Ford Motor Company puts lock tight, a liquid substance that dries, to prevent the bolts from coming

off. Claimant added that once the lock tight bolts have been taken out and replaced, the next time service is required they are not as difficult removing. Claimant is of the opinion that the bolts that he was dealing with on October 15, 2004, were still secured by the factory lock tight application.

The testimony of the claimant reflects that after finally getting the first bolt out, he went and enlisted the assistance of Mr. Ricky Hardin to help him in getting the remaining bolts out.

Claimant testified:

I pried on that till my stomach was hurting. That's when I went and got Ricky.

It's not right. I pried on it and you know how your body gets tired? That's when I went and got Ricky. (T. 41)

Claimant describes Mr. Hardin's job duties at respondent as a mechanic helper.

Claimant's testimony reflects that both he and Mr. Hardin worked together in applying force to the extension bar in loosening the bolts, and still encountered substantial resistance removing the bolts. Claimant estimate he and/or he and Mr. Hardin worked from 3:00 p.m. to 5:00 p.m. on October 15, 2004, removing the four bolts from the truck. Claimant noted that while they got the bolts out, they did not complete the work on the truck before quitting for the day. The shop of respondent closed at 5:00 p.m., and claimant testified that the caliper job was the last task performed on Friday, October 15, 2004.

Claimant testified that when he clocked out from work at the conclusion of his shift on October 15, 2004, he was not aware that he had injured himself as a result of the effort that he had been putting forth on that last job. Claimant lives in Hoxie, approximately 30 miles from Newport. Claimant commuted to work and home with other people. The testimony of the

claimant reflects that he does not usually do anything after work. Claimant denies engaging in any physical activity after leaving work on Friday, October 15, 2004, which could possibly serve as a basis for the symptoms and complaints that he experienced over the weekend.

Claimant denies attempting to go out and have a social relationship with a woman, have sex with a woman, or in any way use his body that might have impacted his testicles after getting off work on Friday, October 15, 2004. Further, claimant's testimony reflects that to his knowledge he was not suffering at that time from any type of sexually transmitted disease that might have had some bearing on what kind of health his testicles were in.

The following day, Saturday, October 16, 2004, claimant testified that he felt sick from his stomach and feverish. The testimony of the claimant reflects that he did not seek medical treatment relative to his complaint, but rather spent the day laying on couch. Claimant explained that on Sunday, October 17, 2004, when he went to the restroom to urinate he found that one of his testicles was swollen and appeared to be twice the size as the other one. In addition to the swelling in his testicles, claimant also experienced pain in his stomach in about the area of his belt line. Claimant noted that he did not hurt in the area of the testicles. Claimant's testimony reflects that he engaged in no other physical activity on Sunday, October 17, 2004, other than laying around.

Claimant reported to work on Monday, October 18, 2004, and relayed to Ms. Barbara Williams, who performs the functions of office manager for respondent, his complaint regarding the swelling of his testicles. Claimant's testimony reflects that he told Ms. Williams that he thought his problem was the product of his work activities of straining while doing the caliper job on Friday, October 15, 2004. As a consequence of his reporting of this complaint to Ms.

Williams, arrangements were made for the claimant to see a doctor.

In the meanwhile, claimant attempted discharge his regular employment duties for respondent on Monday, October 18, 2004. Claimant observed that he had difficulty just walking because of the swelling in his groin area. Claimant noted that he experienced greater pain from swelling on Monday than he had on Sunday. Claimant added that swelling and pain was causing his low back to hurt as well. As a consequence of the pain and physical restrictions he was experiencing, claimant testified that he did not actually get much work done on Monday, October 18, 2004.

Claimant's testimony reflects that pursuant to the arrangements made by Ms. Williams, he was seen by the company-designated physicians on Tuesday, October 19, 2004. Following his examination claimant testified that the company doctor wanted to have him seen at the emergency room. Claimant's testimony reflects that he informed the company doctor that he wanted to be seen by Dr. Phillip Snodgrass.

The testimony of the claimant reflects that he had previous dealing with Dr. Snodgrass and wanted any further required medical treatment to be had either under the care of or at the direction of same. Claimant has been under the care and treatment of Dr. Snodgrass since being seen by same following the initial visit to the company doctor on October 19, 2004.

Claimant's testimony reflects that his condition initially improved after coming under the care and treatment of Dr. Snodgrass, however later it got worse. Claimant denies being involved in any other incidents/accidents of lifting or straining, on or off the job, after coming under the care of Dr. Snodgrass on October 19, 2004. Dr. Snodgrass ultimately admitted the claimant to the hospital and performed a surgical procedure of removing the right testicle.

Claimant was off work a total of four (4) weeks from the time he was admitted to the hospital for surgery and his recovery and return to work. Prior to the point in time that he was admitted for the surgery, claimant was seen by Dr. Snodgrass and treated with medication as he continued to try to work. The medical expenses paid relative to the claimant medical treatment has been done so by Blue Cross Blue Shield, a group health care provider. Claimant has been getting duns for the balance of the medical bills not paid by Blue Cross Blue Shield.

Mr. Ricky Hardin testified that he has been employed by respondent for two and one-half years and was so employed on October 15, 2004:

My job title is wherever I'm needed, that's where I'm at. If it's changing oil, working on vehicles, washing vehicles, or helping one of the mechanics. (T. 45).

Mr. Hardin performs his job duties in the automotive shop of respondent. Mr. Hardin's testimony reflects, regarding the assistance rendered to the claimant on the afternoon of October 15, 2004:

If I can remember, it was F150, a three-quarter ton, big heavy duty truck. We were taking the rear wheels off. We got the rear wheels off for it, and we were removing a drum off the rear on the passenger side. And it had some nuts, bolts and, you know, when Ford makes them, they make them with lock nuts - - lock tight. And some you can get loose and some you can't get a loose. And that was one of them that we had trouble with. (T. 45-46).

Mr. Hardin acknowledged that the claimant was the mechanic/technician assigned to work on the truck. Regarding his involvement in working on the truck, Mr. Hardin testified:

Well, our policy is when someone around there needs help, it's my duty - - it's our duty to go and help them and assist them as much as you can.

Well, he [claimant] had called me over and he asked me could

I help him get the bolts broke loose.(T. 46)

The testimony of Mr. Hardin is corroborative of that of the claimant regarding the tools used and amount of force and strain applied in removing the bolts. Mr. Hardin testified regard the bolts:

They was just so tight you couldn't get them broke a loose, you know. And there was one or two missing because we did have a sledge hammer and was hitting. You know, you couldn't - - you couldn't actually break them. And we did have - - it should have been a 32 (phonetic) or 42 really. It should have been a sledge hammer, but we didn't bring it. I guess he forgot to bring it. (T. 48).

Mr. Hardin testified that after completing work on Friday, October 15, 2004, he did not again see the claimant until Monday morning, October 18, 2004. Mr. Harding testified regarding his observation of the claimant on Monday morning:

I saw him that Monday morning when he came in when he couldn't hardly walk.

We - - me and some of the guys did. We asked him, you know, and he said he was hurting. He didn't actually say what was hurting (T. 50).

Mr. Hardin described the claimant's movement as "real slow" and not walking erect. Mr. Hardin testified regarding his thinking upon being told by the claimant that he was hurting:

I t could have been - - you know, I thought maybe he had ate something bad or something. But later he went up into the front and told them, you know, that he was hurting and they sent him to the doctor. And I didn't see him no more until probably about two weeks, three weeks later.

Well, yes, you can - - you can strain yourself and don't know it till you go home and lay down and wake up. And, you know, it's - - a lot of times it happens, you know. and it's a big possibility, yes, sir. (T. 51).

Mr. Hardin testified that the truck he assisted the claimant in working on was either a Ford F-445 or F-550. Regarding the specific efforts of getting the bolts off of the truck, Mr.

Hardin's testimony reflects:

No, he was - - well, you have your bar stretched out about so far, and one of them's on the end and the other one was here. And - -

Right. You pull down at an angle but you can't get too high because you've got this bed of the truck. And when you try to pull, they just wouldn't give. You know, it's unusual for a company like the Ford dealership or the Ford people that make those vehicles, you know, to put that lock tight. . . .

* * *

Well, we both - - he tried and then I tried. And then so we went and got a sledge hammer and that's when we started. (T. 53-54).

The testimony of Mr. Hardin reflects that it took between two to three hours for him and the claimant to remove the bolts from the truck on October 15, 2004. Mr. Hardin denies relaying to any one anything to the contrary. (T. 55, 57).

Mr. Hardin testified other than while at work, he has no other contact with the claimant. Mr. Hardin noted that claimant lives in Hoxie and he lives in Newport.

A review of the medical in the record reflects that claimant received medical treatment at Lawrence County Family Clinic on February 20, 1995, for complaints of low back pain and two days of frequent urination. Claimant was diagnosed with a urinary tract infection. Claimant was seen in follow-up on March 1, 1995. (RX. #1, p. 1-2). The evidence reflects that claimant next received medical treatment on October 6, 1997. (RX. #1, p. 3). Claimant was again seen on May 6, 1999, with complaint of low back pain and was assessed with UTI. Claimant was seen in follow-up on May 21, 1999. (RX. #1, p. 4). A May 26, 1999, radiology report from Lawrence Memorial Hospital, relative to the claimant reflects the impression of no evidence of opaque calculus or obstructive uropathy and possible chronic cystitis. (RX. #1, p. 5). The medical

evidence reflects that the last time claimant received medical treatment prior to October 19, 2004, was when he was seen on February 20, 2002, with a chief complaint of nerves and a knot on his chest. (RX. #1, p. 7).

The medical in the record reflects that claimant was seen by Dr. Matt Jackson at the Family Practice Clinic in Newport on October 19, 2004, pursuant to the direction of respondent relative to his complaints of low back pain, and swelling in his right testicle. Thereafter claimant was referred to Dr. Snodgrass for work-up and surgical evaluation. (RX. #1, p. 8). Pursuant to the directions of Dr. Snodgrass claimant underwent a testicular ultrasound on October 19, 2004, which concluded with the impression of “changes probably of epididymitis with hydrocele”. (RX. #1, p. 9). When seen in follow-up by Dr. Snodgrass on October 21, 2004, claimant was assessed with epididymitis improving.(CX. #1, p. 2). Dr. Snodgrass’ October 28, 2004, progress note relative to a visit by the claimant of the same day noted that the claimant was healing and that a repeat testicular ultrasound would be performed in three weeks. (CX. #1, p.3).

The medical reflects that on November 10, 2004, claimant was admitted to the hospital pursuant to the directions of Dr. Snodgrass. The History and Physical report relative to the afore admission reflects, in pertinent part:

. . . . A 50 year old male who was initially seen in the ER on 10-19-04 at which time he had epididymo-orchitis. An ultrasound was performed which showed that he had no tumor and had no embarrassment of his blood supply. He was treated over the next couple of weeks with appropriate medication and he had excellent healing at the time and was scheduled to have a testicular ultrasound again on 11-15. However, last Sunday he began to have progressive pain and localization and swelling of his right testicle and was seen in Walnut Ridge and was admitted to the hospital overnight there and then the patient decided he wanted to come back to Newport and came to the hospital for admission for observation followed by appropriate studies. (CX. #1, p. 4).

Claimant underwent the testicular ultrasound on November 10, 2004, which disclosed:

. . . . NO FLOW IS SEEN IN THE RIGHT TESTICLE WHICH IS SWOLLEN. THERE IS SEEN A LOT OF FLUID IN THE SCROTUM ON THE RIGHT SIDE WHICH IS OF MIXED DENSITY. CHANGES ARE HIGHLY SUSPICIOUS OF TORSION. (CX. #1, p. 5).

Claimant also underwent a CT of the abdomen and pelvic on November 10, 2004, pursuant to the directions of Dr. Snodgrass, which disclosed:

. . . .NORMAL CT SCAN OF THE ABDOMEN AND PELVIS. SMALL INGUINAL HERNIAS SEEN BILATERALLY CONTAINING OMENTAL FAT. (CX. #1, p. 6).

The November 12, 2004, surgical pathology report relative to the claimant reflects:

DIAGNOSIS:

Testicle, right, including epididymis and spermatic cord, orchiectomy:
Showing extensive necrosis and acute inflammation compatible with torsion. (CX. #1, p. 7).

Claimant underwent surgery under the care of Dr. Snodgrass on November 11, 2004, with a preoperative diagnosis of severe orchitis secondary to torsion with infarction of the right testicle. (CX. #1, p. 9). The claimant's November 13, 2004, discharge diagnosis was severe right orchitis with torsion and infarction and spermatic cord. The discharge summary relative to the claimant reflects, in pertinent part:

Willard Workman was admitted to the hospital on 11-10-04 with evaluation and treatment of his marked inflammatory enlargement of his right testicle. He was seen 3 weeks prior to this with a similar episode which responded to antibiotics. He had an ultrasound which showed no loss of vascularity. During the course of his evaluation an ultrasound done by a radiologist showed torsion of the right testicle with non-vascularity. He was taken to the Operating Room on 11-11-04 where an orchiectomy was performed on the right side. He was also checked for an inguinal hernia which was not present. His postoperative course was benign. . . .(CX. #1, p. 10).

Claimant treated with Dr. Snodgrass relative to the complaint that he attributed to his

employment activities of October 15, 2004, commencing October 19, 2004, and as such was thoroughly familiar with his course of treatment, response to same, diagnostic studies, and recovery. Further, the evidence reflects that claimant had treated with Dr. Snodgrass prior to the October 19, 2004, date. A November 24, 2003, responsive correspondence of Dr. Snodgrass reflects, in pertinent part:

1. It (is) my opinion that the first time (10-19-04) I saw Mr. Workman, I thought he had a traumatic epididymorchitis. He was evaluated with an ultrasound and had adequate blood supply to his testicle and was treated with appropriate medications.
2. Mr. Workman's white blood count performed by Dr. Jackson's office showed an elevated count which was consistent with an inflammatory response to his swollen testicle and epididymis. He did not have penile discharge or urinary tract symptoms to suppose that his illness was due to an infection. However, because of his symptom of fever, he was given antibiotics.
3. I can state that he most likely had an injury to his testicle, which embarrassed his blood supply to the testicle resulting in the effect of torsion. The initial effect which was evaluated (10/19/2004) by US revealed a viable testicle, however when he returned on 11/11/2004, he had infarcted the blood supply which led to his orchiectomy.
4. The orchiectomy performed on 11/11/2004 was the procedure of choice. Other than routine post operative care is not required.
5. Mr. Workman should be able to return to duty approximately on 12/11/2004. (CX. #1, p. 15).

Dr. Snodgrass furnished copies of summaries of the claimant's medical records to claimant's attorney with a letter of January 24, 2005. The letter further reflects, in pertinent part:

It is my opinion that the initial evaluation by myself concerning Mr. Workman was most likely due to a traumatic injury to his testicle. It is quite possible that he had a hydrocele which when he was stressed physically may have torn and/or torqued his right testicle.

The initial evaluation appeared to be epididymo-orchitis; however, in retrospect it is most likely due to the mechanism I just described. He did, however, return and I found on the next examination when he was in the hospital in November, it was felt that he had had enough

embarrassment of his vascularity and acute changes that he required an orchidectomy. (CX. #1, p. 16).

Following a January 26, 2005, telephone call from claimant's attorney, Dr. Snodgrass elaborated further regarding the mechanism of the claimant's injury:

. After further discussion, I felt I had expressed my opinion concerning Mr. Workman's illness. It is conceivable to me that Mr. Workman was in good health until he had his injury, which expressed about 3 days later. My mechanism of pathology in my opinion would be that he had a hydrocele present, which was apparently damaged at the time of his injury, all be it he had no major symptoms at the time of injury. After 2-3 days he had swelling which then produced rotation of his cord structures which caused him to have the initial appearance of epididymo-orchitis. It was apparent that this, at the time was not embarrassing the blood supply to the point where there was necrosis however it did come back later that he had a complete torsion and of course then led to his orchietomy. It is conceivable that what Mr. Workman told me in terms of his history and also in terms of the most logical sequence of events that this is a work related injury leading to an orchietomy. (CX. #1, p. 17).

Respondent submitted for review the records of the claimant to Dr. D. Keith Mooney, a Little Rock urologist, for his opinion regarding a nexus between the claimant's work activities on October 15, 2004, to the subsequent complaints and surgery. The May 9, 2005, report of Dr. Mooney reflects, in pertinent part:

. . . . After review, Mr. Workman reported straining to loosen bolts at work on 10/15/04. He did fairly well initially, but had gradually worsening groin symptoms over the weekend, but went to work on Monday 10/18/04. Apparently he continued to be symptomatic and was seen by his family physician on 10/19/04, thought to have a possible inguinal hernia and was subsequently referred to Dr. Phillip Snodgrass, a general surgeon at Newport Hospital.

* * *

Mr. Workman subsequently underwent what appeared to be a right radical orchietomy on 11/11/04. I did not see a comment concerning

the appearance of the testicle or any obvious twist in the spermatic cord. The path report from Newport as well as a second opinion Searcy did not show extensive necrosis and acute inflammatory changes compatible with torsion.

* * *

I am not able to read the ensuing dates and information as clearly as I would like, he probably had a visit with Dr. Snodgrass' office around 12/2/04. I do not have the office findings at that time. He was cleared to return to work on 12/3/04 or 12/7/04.

In the records that I reviewed, it was not clear to me that the patient had any underlying or preexisting condition that would result in either orchitis or torsion of the testis. If a patient had a history of prostatitis or urinary tract infections, he would be at risk of developing orchitis. His urinalysis in the Emergency Room from 10/19/04 does seem to suggest inflammatory changes of his urinary tract. While not impossible, he would be less likely to have a testicular torsion at age 51 as generally this is considered to be related to a congenital abnormality of the testis within the scrotum, generally presents itself in much earlier years. In my opinion, based on the information at hand, the patient probably had epididymitis that ultimately went on to develop an infarction of the testis because of progressive epididymitis and orchitis.

Therefore, with the information presented, I cannot "with a reasonable degree of certainty" link the reported work incident and the subsequent scrotal changes which resulted in surgery. While there is some change of his having underlying prostatitis with a delayed development of epididymitis after straining at work, a previous history of dysuria, other lower urinary tract irritative symptoms or urinary tract infections would have to be elicited prior to his injury, and I do not see these documents in the record. (RX. #1, p. 16-18).

In a responsive correspondence of June 9, 2005, Dr. Snodgrass address the opinions regarding the claimant as reflected in Dr. Mooney's May 9, 2005, report:

As you know, I first examined and/or treated Mr. Workman when he presented to the Newport Hospital Emergency Room on 10/19/04. He initially improved from the course of treatment offered but later his condition worsened which caused an admission for observation and studies on 11/10/04. Those studies were highly suspicious fro [for] torsion. I performed an operative procedure on 11/11/04 to treat his injury and operative

procedure has proven to be successful.

You will not that when I responded to your initial letter of 24 November '04 I expressed my opinion that Mr. Workman has suffered a traumatic epididymorchitis his testicle which embarrassed or interrupted his blood supply to the testicle resulting in the effect of torsion. I restated my opinion regarding the traumatic cause of his injury in my letter to you of 24 January '05 and I restated that opinion in a follow up letter to you of 26 January 2005.

In response to your request for clarification and after reviewing the May 9, 2005 report of Dr. Mooney, I restate my opinion, expressed to a reasonable degree of medical certainty, that the condition which I observed on 10/19/04 and the condition which I ultimately surgically cured on 11/11/04 by performing a right orchiectomy was caused by the traumatic physical straining which Mr. Workman reports as having occurred in the scope and course of his employment at Harris Ford during the afternoon of Friday, October 15, 2004. (CX. #1, p. 18-19).

On July 13, 2005, the parties obtained the deposition testimony of Dr. Snodgrass, a general surgeon in Newport, who has a hospital clinic practice. The testimony of Dr. Snodgrass reflects that extent of his contact with the claimant prior to October 2004, was April 2001 for removal of a foreign body from his right arm. Dr. Snodgrass differentiated between epididymo-orchitis and torsion:

Epididymo-orchitis is just nothing more than the descriptive term for the inflammatory process of the epididymis, as well as the testicle, and it can be produced by multiple different reasons. Torsion is when that structure, which includes the vascular support to the testicle, is twisted, or traumatized, in which there is blood vessel damage and obstruction to the blood flow of the testicle. At least, that's the closest I can come to it. (JX. #1, p. 5).

With respect to a distinction in symptoms between of epididymo-orchitis and torsion, Dr.

Snodgrass responded:

I don't think you'd differentiate the difference in symptoms, basically, because they'd both be painful. They would both be swollen. There would be swelling. There would be an obvious inflammatory

process, and both of them would actually have the same kind of picture. (JX. #1, p. 6).

Dr. Snodgrass explained the ultrasound, performed by a radiologist, differentiates whether there is blood flow into the testicle or not. While generally, the difference between torsion and epididymo-orchitis, is that with torsion there is an absence or restriction of blood flow, Dr.

Snodgrass cautioned:

Well, with variation. Now, you can have the development of an inflammatory process that has not progressed to the point where blood supply has been completely embarrassed, and you may have flow, like I think in this situation.

But, you'd have to have complete blood flow obstruction, which is what caused him to have a necrotic or gangrenous testicle, which, you know, produced the operative procedure for him. (JX. #1, p. 7).

Dr. Snodgrass acknowledged that the inflammatory process could progress to a point where it restricts blood flow producing necrosis without a torsion.

Dr. Snodgrass testified that an individual could experience a "partial torsion". Dr.

Snodgrass explained:

You can have a torsion and then it can de-torse. In other words, if you had something that had - think of it as a ball on the end of a tether - you can twist that ball and if it's free-floating, then it can untwist, as well, and it's quite possible, from looking at the records here, that's possible what happened to this man [claimant]. (JX. #1, p. 8).

With respect to the claimant, Dr. Snodgrass' testimony reflects:

No, when I first saw him - when I first saw him, he might have had torsion. In other words, I entertain the idea of a torsion as you read my records. That's why we did the ultrasound, initially. But, he could have had de-torsed, as well, which would have allowed him to have some blood flow, and then later, then the blood flow completely closed off, which produced the reason for the orchiectomy. (JX. #1, p. 8).

In the case of a possible de-torse Dr. Snodgrass cites swelling as the re-torse agent. Elaborating on the claimant's situation, Dr. Snodgrass testified:

Well, I really don't know how to explain that, to be honest with you. I can't say that that's exactly what happened in this situation. What probably happened in this situation is that there was trauma to the epididymis and to hydrocele which was present, which produced swelling, which, in reality, then, obstructed the blood supply. Whether this was a true torsion or not, I don't think there was any definition of that in the pathology report, but there had to be some sort of embarrassment of the blood supply for him to have complete obstruction and the, of course, death of his testicle. Whether this was an ongoing twisting-untwisting process or not, I don't think anybody can tell you that.

* * *

Something had to obstruct the blood flow.

Now, the only way I can reason it out is that he had some trauma that embarrassed the blood supply to his epididymis and to the vascular support to his testicle. Now, this could - the presence of the hydrocele - you know, a hydrocele is an incomplete closure of the tunica vaginalis that comes down out of the abdomen, and it forms a sort of a sac with fluid and if you were to trauma that, it's a fixed point, where the epididymis would be fixed - you could tear that, which would then initially embarrass the blood supply. It may not be a true torsion - it may be just that everything got obstructed up proximal to the testicle.(JX. #1, p. 9-10).

The hydrocele and the epididymis come out of the same opening. Dr. Snodgrass explained further:

When the testicle is formed, it's brought out of the abdomen through a canal. That canal takes with it the lining of the abdomen to the peritoneal. That, generally obliterates itself as a ligament, okay? Or, if it remains and it has an internal ring is opened, it forms a hernia. If you close off the upper part of what would be a hernia, then that's the formation of a hydrocele, and that fills with fluid. Again, my reasoning behind all this was that he probably had some trauma to the hydrocele which was attached to the epididymis which then embarrassed the blood supply which led to the final procedure. (JX. #1, p. 10).

When questioned regarding the possibility of the embarrassed blood flow being attributable to some bacterial infection or other inflammatory process, Dr. Snodgrass testified that while the claimant's white blood count was elevated on October 19, 2004, the same could have been the product of the inflammatory process - the claimant's big, swollen, tender testicle.

With respect to the trauma suffered by the claimant in his work activities of October 15, 2004, the testimony of Dr. Snodgrass reflects:

Well, he didn't have any direct trauma. In other words, he didn't have something hit him, but in my estimation, the only way I can explain what I see, is he must have had some stretch of tissues or injury to tissues that would have produced this pattern. He did not tell me that he got hit by anything or was - but he did feel discomfort in his groin after he did this pulling - I guess it was a pulling - whatever he was doing. (JX. #1, p. 13).

Dr. Snodgrass further testified regarding the role of a stretching injury to the claimant's complaints:

Okay, by pulling, with anything, you're going to increase your intra-abdominal pressure. You're also going to increase the strengthening of multiple muscles. There's a very weak spot at the internal and external ring in the groin, and this is how, when someone has a potential hernia or has a hernia, will actually push tissue into that ring or into that - if they definitely have a hernia, they're pushing a bowel or omentum or something like that into a inguinal hernia, okay? Now, on x-ray, according to the radiologist, he had some hernias. I could not feel a hernia when I examined him, but it is quite possible that he had enough pressure located at that point that stretched, at the same time, a hydrocele - or tore tissue - let's put it that way - that either bled into the tissue or, because of the stretch or tear, became swollen and with that, then, eventually the blood supply was embarrassed. That's my explanation of it. (JX. #1, p. 14).

Dr. Snodgrass explained that the epididymis is a tubular structure that is associated with an artery and multiple veins.

The testimony of Dr. Snodgrass reflects that when he treated the claimant in the

emergency room on October 19, 2004, he was given Kefled and Lortab as well as an injection of Rocephin and Toradol. Dr. Snodgrass testified:

He got Rocephin - a gram IM, and Toradol IM, which is an anti-inflammatory agent, pain medication, and antibiotic, and then I give him a prescription for Lortab, which is a pain medication, and Keflex, 500 milligrams via IV for antibiotic, when I saw him in the emergency room. I did not change that, according to my notes, when I saw him again on the 21st or the 28th. (JX. #1, p. 18).

Dr. Snodgrass acknowledged that on October 28, 2004, the antibiotic treatment stopped. Dr.

Snodgrass added:

Now whether or not the antibiotic had that much to do with reversal of his symptoms or findings, I really don't have an answer to that. Obviously, it helped, but whether that had the direct effect or not, I don't know. (JX. #1, p. 18-19).

Dr. Snodgrass' testimony reflect that the antibiotic was given to prevent infection. Likewise, Dr. Snodgrass noted that the presence of a fever by the claimant during his initial contact with same could be due to the inflammatory process and not necessarily the infection process.

Regarding the course of the claimant's treatment following the initial October 19, 2004, contact, testimony of Dr. Snodgrass reflects that when claimant was seen on October 21, 2004, he was improving:

Some, yeah - not a whole lot. Let's see, I've got the not here. I said mild to moderate edema, so some of the swelling had gone down.

* * *

Okay - the 21st, he was improved, he was less tender, his testicle softer, and he didn't have a hernia, and I thought he was improving. And then the 28th, he was again less tender, less swollen.

Dr. Snodgrass acknowledged that with the combination of symptoms [elevated white blood cell

count and fever] displayed by the claimant resulted in the impression of his complaint as epididymo-orchitis. Dr. Snodgrass testified that if he thought the claimant had a torsion at the time of his October 19, 2004, initial contact, following receipt of the various diagnostic studies [ultrasound, CBC, CMP and urinalysis] he would have admitted him into the hospital to have him observed 24 hours and performed another ultrasound. Dr. Snodgrass noted that if there is no blood supply to the testicle it has to be removed. Regarding a finding of “restriction” of blood flow to the testicle, Snodgrass’ testimony reflects:

If it would have improved, no. If I had put him in and observed him 24 hours and he had improved, I would have done exactly what I did this time. (JX. #1, p. 22-23).

Dr. Snodgrass testified that when there is a diagnosis of torsion the rule of thumb is that you should operate within 12 to 24 hours if you’re going to try and save the testicle. Dr. Snodgrass observed that over his thirty-five (35) years of practicing medicine he has treated a number of torsions.

Despite the improvement in the claimant’s condition noted during the follow-up visits of October 21 and October 28, 2004, Dr. Snodgrass opined, regarding his status [increased swelling] when seen on November 10, 2004:

The process probably continued - okay? It’s not something that brand new happened to him, I don’t believe. I believe that probably this was an on-going process throughout the whole time. (JX. #1, p. 27).

Dr. Snodgrass explained:

Well, one thought I had was that, if the epididymi - the penniform plexus of veins that are around the epididymis, if they are obstructed or thrombosed, you would have blood flow into the testicle, but not out, and consequently, that would begin to have more swelling and then that would obstruct the flow to the artery, which then caused him

to have necrosis and death of the testicle - at least that's a reasonable way of theorizing it.

* * *

Realize that when you make an incision in tissues, and you take them apart, and you put them back together, the inflammatory process really begins for the first three weeks. You don't get fibrous union of tissues until three weeks, so, you know, that fits the pattern of inflammatory changes within the body. So, quite, possibly, this was all an on-going process. (JX. #1, p. 27-29).

Dr. Snodgrass explained the use of the word "excellent" in his November 10, 2004, report referencing his last visit with the claimant of October 28, 2004, as a hyperbole on his part.

The testimony of Dr. Snodgrass reflects a description of the level of the necrosis at the time of surgery:

The cord and the testicle itself appeared to be gangrenous to me.(JX. #1, p. 32).

Dr. Snodgrass testified, regarding the length of time of the absence of blood flow or restriction, based on his finding relative to the tissue involved:

I would say that it means it had been there for quite a while.

I can't give you a specific number of days or anything like that, but, long enough to where the tissues are being absorbed.(JX. #1, p. 32).

Dr. Snodgrass' testimony reflects that had the claimant's blood flow to the testicle been restricted, but not completely cut off, since October 15, 2004, the appearance of the testicle was consistent with his observation at the time of surgery.

Responsive to his prescription of antibiotics to the claimant following his initial contact with same on October 19, 2004, in the treatment of his complaint, as well as subsequent to the November 11, 2004, surgery, Dr. Snodgrass testified:

Well, the original - let's look at things from a retrospective viewpoint - when I first saw this, it had the same picture that you would see with an infectious epididymo-orchitis, and I didn't know whether he was having a torsion or if he had an infectious process, so he was treated with antibiotics imperically, as if you would treat anybody that has a swollen testicle. Now, the fact that he responded, I guess I was being - I can't say hyperbole again - but I can say that I was thinking that that was the cause at the time. . .

. . . . because my initial impression might be - or was, at the time - that it could have been infections, and so I don't think that's really a very good qualifying statement on my part.

* * *

Now, after the orchiectomy, it was a different problem.

Because you have such a marked amount of inflammatory process there, that the potential for infection is great. (JX. #1, p. 36-37).

Dr. Snodgrass' testimony reflects that of the people he has treated for just an infectious process - epididymo-orchitis, usually respond well to antibiotics in a very short period time, a week to 10 days. Regarding the role of claimant's treatment for urinary tract infections on his opinion of the work-related nexus to the October 19, 2004, complaint and treatment, Dr.

Snodgrass testified:

If he had a recent infection, it might change my attitude a bit, but if he didn't have one recently, I mean prior to - within an immediate time frame of this. . .

Two to three weeks at the most. (JX. #1, p. 41).

Finally, Dr. Snodgrass' testimony reflects regarding his finding during surgery:

What I saw was tissue necrosis.

Which means there's no blood supply. It extended from the internal ring all the way down there to his testicle, and doesn't look like any infectious process. It did not have any puss in it, whatsoever.

It was just an inflammatory process due to obstruction of the blood vessel.(JX. #1, p. 48).

After a thorough consideration of all of the evidence in this record, to included the testimony of the witnesses, review of the medical reports and other documentary evidence, application of the appropriate statutory provisions and case law, I make the following:

FINDINGS

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On October 15, 2004, the relationship of employee-employer existed between the parties.
3. On October 15, 2004, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$428.00/\$321.00, for temporary total/permanent partial disability.
4. On October 15, 2004, the claimant sustained an injury arising out of and in the course of his employment.
5. The claimant was temporarily totally disabled for the period beginning November 10, 2004, and continuing through December 7, 2004.
6. The claimant's healing period ended December 7, 2004.
7. The claimant has suffered the total loss of his right testicle as a result of the October 15, 2004, compensable injury.
8. The respondent shall pay all reasonable hospital and medical expenses arising out of the injury of October 15, 2004.
9. The respondent has controverted this claim in its entirety.

CONCLUSIONS

The present claim is one governed by the provisions of Act 796 of 1993, in that the claimant asserts entitlement to workers' compensation benefits as a result of an injury having been sustained subsequent to the effective date of the afore provision. To be entitled to workers' compensation benefits for a specific incident injury, claimant has the burden to proving by a preponderance of the evidence that he suffered an accidental injury, identifiable by time and place, that arose out of and in the course of his employment, caused internal or external physical harm to his body and required medical services by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102 (4) (A) (i); *Kimbrell v. Arkansas Department of Health*, 66 Ark. App. 245, 989 S.W.2d 570 (1999).

In terms of establishing a causal relationship between his injury and his employment, the evidence preponderates that on October 15, 2004, claimant, while discharging employment duties as a technician/mechanic for respondent, engaged repeated and substantial force and strain while removing bolts from the rear wheel of a Ford F-450 or F-550 pickup truck. Even after enlisting the assistance of a co-worker, tools, a cheater bar and sledge hammer, between two to three hours were required before all of the bolts were removed. Claimant removed the first bolt from the vehicle by himself before enlisting the help of his co-worker. While performing the afore, claimant experienced slight pain in his groin area, however continued working. Claimant got off work at 5:00 p.m. Friday, October 15, 2004, and did not engage in any physical activity over the weekend.

The credible evidence reflects that claimant's activity over the weekend of October 16-17, 2004, was limited to laying around due to the fact that he did not feel well. On Sunday,

October 17, 2004, claimant observed swelling in the area of his testicles. By the time claimant reported for work on Monday, October 18, 2004, in addition to the swelling in the testicle area, he was experience pain in the area and in his low back. Claimant reported the injury to appropriate supervisory personnel of respondent on October 18, 2004. On October 19, 2004, claimant received medical treatment under the care of a physician selected by respondent. Claimant was subsequently referred to Dr. Phillip Snodgrass, a Newport general surgeon.

Dr. Snodgrass remained the claimant's treating physician relative to his October 15, 2004, complaint subsequent to October 19, 2004. Claimant was seen by Dr. Snodgrass on October 21, 2004, and October 28, 2004, during which time he remained symptomatic, thought improving. On November 10, 2004, claimant was seen at the emergency room and admitted for further treatment, to include surgery on November 11, 2004. Dr. Snodgrass determined, within a reasonable degree of medical certainty, that the medical treatment, to include surgical removal of the right testicle, was the product of a work-related injury suffered by the claimant on October 15, 2004, while removing the bolts for the truck at work. *Wentz v. Service Masters*, 71 Ark. App. 296, 57 S.W.3d 753 (2001).

It is undisputed that the claimant has previously been treated for urinary tract infections in the past, however, there is no evidence of such a diagnosis or treatment in close proximity to the events of October 15, 2004. In fact, the contrary is the case based on the medical evidence in the record. There is not a dispute regarding the claimant's employment activities on the afternoon of October 15, 2004. Finally, there is not a disputed regarding the claimant's reporting of the his complaints to appropriate personnel on October 18, 2004; that the claimant's movements on October 18, 2004, were observed as bent-over, difficulty ambulating, and limited. Claimant

appeared to be in pain. Claimant related his symptoms,(pain and swelling) to his employment activities of removing the bolts from the truck on Friday, October 15, 2004.

Respondent takes the position that the claimant did not that the claimant did not sustain a compensable injury while work on October 15, 2004. Objective medical evidence is not essential to establish the causal relationship between the injury and a work-related accident where objective medical evidence establishes the existence and extent of the injury, and a preponderance of other non-medical evidence establishes a casual relation to a work-related incident. *Horticare Landscape Management v. McDonald*, 80 Ark. App. 45, 89 S.W.3d 375 (2002). The evidence in the record preponderates that the claimant suffered trauma with discharging employment duties on October 15, 2004, which required medical treatment, and ultimately resulted in the surgical removal of his right testicle.

Ark. Code Ann. §11-9-508 (a) mandates that employers provide such medical services as may be reasonably necessary in connection with the employee's injury. *Cox v. Klipsch & Associates*, 71 Ark. App. 433, 30 S.W.3d 764 (2000). The evidence preponderates that the medical treatment received by the claimant under care and at the direction of Dr. Phillip Snodgrass on and after October 19, 2004, to include surgery, was reasonably necessary relative to the treatment of the claimant's compensable injury, and for which respondent is liable. Respondent has controverted this claim in its entirety.

Claimant was off work relative to his October 15, 2004, compensable injury from November 10, 2004, through December 7, 2004, during which time he underwent surgery and recovery. A claimant is entitled to temporary total disability during his healing period if he shows by a preponderance of the evidence that he had a total incapacity to earn wages. *Carroll*

General Hospital v. Green, 54 Ark. App. 102, 923 S.W.2d 878 (1996). Respondent has controverted the claimant's entitlement to temporary total disability.

In the instant claim, the evidence preponderates that as a result of his compensable injury of October 15, 2004, claimant suffered the loss of his right testicle. Ark. Code Ann. § 11-9-501 (d) (2) (A) (B), the permanent partial disability rate for amputation or permanent total loss of use of a member shall be the same as the employee's total disability rate. Ark. Code Ann. § 11-9-521 (A) (17) the loss of one testicle entitles the claimant to the payment of fifty-three (53) weeks of benefits at his total disability rate of \$428.00. Respondent has controverted this claim in its entirety.

AWARD

Respondent is herein ordered and directed to pay to the claimant temporary total disability benefits at the weekly rate of \$428.00, for the period commencing November 10, 2004, and continuing through December 7, 2004, as a result of his compensable injury of October 15, 2004. Said sums accrued shall be paid in lump, without discount.

Respondent is herein ordered to pay to the claimant permanent total disability benefits at the weekly compensation benefits rate of \$428.00, for 53 weeks pursuant to Ark. Code Ann. § 11-9-521 (a) (17). Said sums accrued shall be paid in lump without discount.

Respondent is further ordered and direct to pay all reasonably necessary related medical, hospital, nursing, and other apparatus expenses growing out of the claimant's compensable injury of October 15, 2004, to include medical related travel. Respondent may claim credit for sums paid toward the discharge of the afore obligation, pursuant to Ark. Code Ann. § 11-9-411.

Maximum attorney fees are herein awarded to the claimant's attorney on the controverted

indemnity benefits herein awarded, pursuant to Ark. Code Ann. § 11-9-715.

This award shall bear interest at the legal rate pursuant to Ark. Code Ann. § 11-9-809, until paid.

Matters not addressed herein are expressly reserved.

IT IS SO ORDERED.

Andrew L. Blood, Administrative Law Judge