

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F512666

DARLENE SISEMORE	CLAIMANT
COOPER POWER SYSTEMS, INC.	RESPONDENT
CROCKETT ADJUSTMENT INSURANCE CARRIER	RESPONDENT

OPINION FILED AUGUST 22, 2006

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

Claimant represented by LAURA MCKINNON, Attorney, Fayetteville, Arkansas.

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

STATEMENT OF THE CASE

A hearing was held on June 27, 2006, 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 23, 2006. 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 all relevant dates, the relationship of employee-employer-carrier existed between the parties.

3. The claimant is entitled to a weekly compensation rate of \$327.00 for temporary total disability and \$245.00 for permanent partial disability.

4. The claimant filed her AR-C with the workers' Compensation Commission on November 28, 2005.

By agreement of the parties the issues to litigate are limited to the following:

1. Compensability of the claimant's injury to her right shoulder.

2. Related medical.

3. Temporary total disability from June 30, 2005, to October 19, 2005.

4. Attorney's fees.

5. Failure to report a back injury.

The claimant reserves the right to try the compensability of her back, neck and upper extremities at a later time.

In regard to the foregoing issues the claimant contends that she sustained a compensable shoulder, spine, extremities injury arising out of and in the course of employment with the respondent on or about July 15, 2004. This was a specific incident injury with an alternative only contention of gradual onset. Claimant contends entitlement to workers' compensation benefits as set forth in the issues response in the pre-hearing memorandum, and specifically, reasonable, necessary and related medical expenses; temporary total disability benefits; permanent partial/total disability benefits (reserved); and controverted attorney fees. All other benefits are reserved under the Act.

In regard to the foregoing issues the respondents contend that

the claimant has not sustained a compensable injury as defined by the Arkansas Workers' Compensation Act. On or about August of 2004, the claimant made complaints of bilateral hand and wrist problems, right arm and shoulder problems. Medical treatment was provided to the claimant from August 2004 through January 13, 2005. A nerve conduction study was normal. There have been no measurable and objective findings to support any of the physical complaints of the claimant. Therefore, the respondents have controverted this case in its entirety. In addition, the claimant has never reported any type of spine or back injury and, therefore, in the event the Commission finds this injury compensable, which the respondents deny, the claimant is barred from benefits until she gave notice of the injury which was the filing of the Form AR-C.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No. 1. The claimant submitted medical evidence marked Claimant's Exhibit No. 1. The respondents submitted medical evidence marked Respondents' Exhibit No. 1, the deposition of Dr. Matthew J. Coker marked Respondents' Exhibit No. 2 and a video tape marked Respondents' Exhibit No. 3. All these exhibits were admitted without objection.

DISCUSSION

The claimant testified that she was forth three years old, had finished the eighth grade and can write but cannot read very well. The claimant testified that she has worked for the respondent for the past eight years and was initially in the fuse department. The

claimant testified that she has worked on the line and then was made a set up lead. The claimant testified that then she was moved to soldering and that she was a trainer, solderer and material handler. The claimant testified that her shoulder started hurting her when she was changing dies and soldering in July 2004. The claimant testified that her pain was brought on when she was cranking a die and she heard her shoulder pop. The claimant testified that she reported this problem to her supervisor but that she continued to work doing her same job activities which seemed to make her shoulder worse. The claimant testified that she reported her problem to Thurman in August and he sent her to the workers' comp doctor. The claimant testified that she saw Dr. Moffitt and he gave her a cortisone shot in her shoulder and ordered physical therapy. The claimant testified that she saw Dr. Moffitt about twelve or thirteen times and then he released her with her same symptoms and recommended that she seek additional medical help.

The claimant testified that she went to see Dr. Vandergriff and that she then ended up going to Dr. Coker who did surgery on her shoulder. The claimant testified that she is still under Dr. Coker's care and that she had been taken off work by the doctor from June 30, 2005, to October 19, 2005, as a result of her shoulder surgery. The claimant testified that when she returned to work for the respondent she was put in auto bagging. The claimant agreed that as a result of this new job she has developed carpal tunnel syndrome.

The claimant testified that the respondent makes electric fuses. The claimant testified that she had been working on the soldering line soldering fuses which are very small about the size of a pencil lead. The claimant testified that she was sitting in order to do this job but because she is just 4'11" it is hard sometimes to reach things, noting that she struggles. The claimant testified that the respondent has proved chairs that go up and down but she has to keep her chair lowered so that her feet can touch the ground so they will not go to sleep. The claimant testified that besides being 4'11" she also weighs 240 pounds. The claimant testified that because her chair has been lowered, the table on which she works comes to about her arm pits. The claimant testified that she has to reach forward with her arms and bend forward. The claimant testified that she is holding her arms straight out in front of her about shoulder level when she is soldering the fuses. The claimant testified that she is right-handed so she holds her soldering iron with this hand and with her left hand she picks up the element. The claimant testified that she will then pick up her soldering iron and solder and then put it back down and do this over and over and over again. The claimant testified that she would put out almost two-thousand elements a day. The claimant testified that the product comes in bundles of one hundred and she can do a hundred in less than thirty minutes. The claimant testified that they also work with coils but that the same procedure is used for both products. The claimant agreed that because of her weight she is pushed back from the table which

causes her to have to reach further. The claimant testified that she also is a material handler and a trainer. The claimant testified that this job requires her to change dies as well as check on new employees. The claimant testified that she might solder for a while and then go check on a new employee to make sure they are doing the work correctly and then go back to her soldering job. The claimant testified that while doing the soldering job, she also might be called to change out a die. The claimant explained that she would be working on the soldering table and someone would need a die changed out so she would have to leave her job, go change the die and then she would return to her job. The claimant testified that the number of dies she has to change during a day depends on the size of the order.

The claimant testified that when she is required to change a die she would set up the table, loosen the bolts, take the die out, put another die in and then tighten the bolts down. The claimant testified that she uses a tool to loosen the bolts. The claimant testified that once the die is in place she then looks at the work order to see what the dimensions are to be and then she would have to crank the lever to the dimensions. The claimant testified that the die machine itself is not all that big but it is taller than she is and the crank is up close to the top. The claimant testified that she would have to reach up shoulder or head height in order to crank the die to the proper dimensions. The claimant testified that she would change out dies as well as do her soldering job and the training job all within the same shift. The

claimant testified that she might change over one hundred dies a week but did not know how many this would translate out to per day. The claimant testified that she worked a regular eight hours with lots of overtime. The claimant explained that when there is a hurricane or bad storm they have to put in at least ten hours a day and eight hours on Saturday. The claimant testified that soldering makes her shoulders hurt and that often times she drops her soldering iron. The claimant testified that it is difficult for her to keep up with the work requirements and she returns early from her lunch in order to try and keep up so that she will not get into trouble. The claimant testified that her shoulder is currently hurting very bad and that it is still bothering her at work. The claimant agreed that she has had one surgery on her shoulder but the problem she is having now is from her finger tips all the way up to her shoulder. The claimant testified that she has constant pain. The claimant testified that she loves her work and would like to stay there as long as she can.

On cross examination, the claimant testified that she hurt her shoulder when she was cranking a die and she heard her shoulder pop. The claimant testified that she heard something in her shoulder and that she had pain all over her arm. The claimant testified that she reported this injury to Thurman Hatch. The claimant testified that she kept asking Thurman if he had turned her accident report in and he said he would as soon as he saw Jim. The claimant agreed that she did speak to Jim Raynor and after she spoke to Mr. Raynor it took a couple of weeks for her to be sent to

the doctor. The claimant testified that she reported to Mr. Raynor that she had hurt herself while working on a die. The claimant testified that she remembers telling Jim Raynor about cranking the die and hurting her shoulder. The claimant testified that at the time she talked to Jim Raynor about her problems her whole arm and right side were sore. The claimant testified that she did not remember whether in her deposition she had testified that there was no specific accident which caused her shoulder problems. The claimant read from her deposition, "When I was soldering, it just started hurting." In the claimant's deposition she was asked if she had an accident or did things just start getting sore and painful over time and the claimant responded in her deposition, "It just kind of kept getting worse, yeah." The claimant was asked if on cross examination during the deposition if it was not brought up to her about a specific incident and that after that she then remembered a specific incident and the claimant responded, "Yeah, I guess." The claimant was reminded that she also had testified to a specific incident of dropping a die which caused her problems. The claimant was read from her deposition at page 55 line 4, "I was sitting there and my arm was hurting because I was soldering and when I changed that die, I went to pick it up, it dropped and when it started dropping, I caught it. And when I did that it messed my arm up pretty good." The claimant testified that she hurt her arm cranking and then when she dropped the die it also hurt her arms. The claimant testified that Thurman Hatch gives her what her quota should be per day.

A video tape was viewed while the claimant was on cross examination and the claimant first identified the job of soldering. The second job she called punch press and the third job was that of changing out a die. The claimant testified that besides doing these three jobs during her shift she also would check on people to make sure that they were doing their job correctly and she also would do set up for jobs in that she would move people and tell them what to do for that particular job. The claimant admitted that she had been involved in a motor vehicle accident three or four years earlier and had been treated at the ER as well as by Dr. Larry Weeks. The claimant testified that she entered into a settlement as a result of this motor vehicle accident and that the settlement included her medical bills, pain and suffering.

On redirect examination, the claimant testified that when she does the job of soldering it looks different than what is seen on the video. The claimant explained that she is right-handed and the person in the video is left-handed and so everything is set up backwards. The claimant testified that the person in the video also is working at about waist level and when she is soldering, her arms are reaching out at about shoulder level because of her need to have her chair down. The claimant agreed that when she would have to get material she would have to reach across the table bending forward at the waist. The claimant testified that doing the punch press is pretty much the same in that she often has to use a foot pedal and because her legs are short she has to have her chair very low in order to reach the pedal which involves having to

reach her arms out at about armpit level in order to work on the press. The claimant was asked about the soldering job and she responded that she is constantly reaching up. The claimant again testified that she will get her element ready, reach for the flux, put the flux on, reach over for her iron and then she solders.

Susie Collins testified on behalf of the claimant. Ms. Collins testified that she has worked for the respondent for nine years and her job title is that of lead helper. This witness testified that her job duties are similar to those of the claimant's and that she sits at the machines, works the punch presses as well as solders and helps with training. Ms. Collins testified that she would do about twelve hundred cables within an eight-hour shift and agreed that the work was rapid as well as repetitive. Ms. Collins agreed that she uses her right hand and arm a lot, noting that she has to hold the iron up with her right hand so that the solder can run down onto the element. This witness testified that she also has to reach for flux as well as the elements and that she does this every single time that she solders. Ms. Collins testified that when she sets up a die it requires reaching, pushing and pulling. This witness testified that you have to reach up and crank in order to adjust the die. Ms. Collins testified that she would probably have to crank the die about ten to fifteen times in order to get the die set right. Ms. Collins testified that changing a die out would be done at least two to three times a day depending on what the work order called for. Ms. Collins testified that besides doing cables and elements

she would also do coils. Ms. Collins testified that working with the coils required working with both hands and that she was still having to reach. Ms. Collins testified that if the claimant had stated that she done about fifteen hundred cables but two thousand coils she would agree with what the claimant said.

On cross examination, Ms. Collins testified that the respondent would like for the employees to do at least one thousand soldering jobs a day and if a person does not meet this goal they are told that they can do better. This witness testified that the claimant has talked to her about her shoulder problems indicating that the claimant had reported that her shoulder hurts. Ms. Collins testified that the claimant told her that she hurt her shoulder setting up a die, noting that something popped when she was cranking. Ms. Collins testified that she and the claimant began working for the respondent on the same day and that the claimant was her ex-sister-in-law.

James Raynor testified that he has been working for the respondent since November 1997 at his current job title of senior safety and environmental engineer. Mr. Raynor testified that his involvement with workers' compensation injuries is that he will get an accident report from an individual or their supervisor and that he would set up the medical appointments as well as talk to their insurance carrier. This witness testified that he actually received an accident report from the claimant on August 16, 2004, but does not recall speaking with the claimant. Mr. Raynor testified that the accident report sets forth that her injury was

due to soldering. This witness testified that once he got the report from the claimant he sat up an appointment at the Arkansas Occupational Health Clinic. Mr. Raynor agreed that the work areas in the plant have adjustable tables and adjustable chairs. Mr. Raynor testified that the respondent manufactures current carrying devises. The witness testified that most everything that you would see on a power pole with the exception of the transformer and the wire is made or touched by the respondent. This witness testified that during a hurricane season their business picks up.

The medical records set forth that on August 16, 2004, Dr. C. Vandergriff excused the claimant from soldering until further notice. Dr. Gary Moffitt writes on August 19, 2004, that at the request of the respondent they were seeing the claimant for complaints of pain in her right-hand radiating up into her shoulder. Dr. Moffitt notes that she has no injury and has been working up to ten hours a day soldering. Dr. Moffitt notes that the claimant has been seen by her private physician and there is a question about carpal tunnel for which nerve conduction studies have been scheduled. Dr. Moffitt writes that the claimant's main complaint is pain along the dorsal aspect of her wrist and hand on the right side radiating into the elbow and into her shoulder. Upon examination, Dr. Moffitt notes that the claimant is fifty-nine inches tall and weighs 246 pounds. The doctor notes that there is a little bit of swelling of the wrist and hand dorsally. Dr. Moffitt opines that she has tendinitis of the wrist and forearm and recommended Vioxx. The doctor recommended that she continue to

work but to limit her gripping with both hands. The claimant was seen by Dr. Moffitt on September 1, 2004, and upon examination, Dr. Moffitt notes that it feels like there is something knotting in the muscle in the claimant's forearm. X-rays were taken of the claimant's wrist which were found to be normal. Dr. Moffitt prescribed medication and she was to continue to work with restrictions. On September 13, 2004, Dr. Moffitt writes that he has seen the claimant for recheck of tendinitis in her right wrist and forearm bilaterally. The doctor notes that the claimant contends that her discomfort goes all the way up into her right shoulder and that the injection which she received last week did not help. Dr. Moffitt reports that the claimant had a nerve conduction study done which did not reveal evidence of carpal tunnel of the right hand. Upon examination, Dr. Moffitt notes that there is some muscle knotting in her forearm and that she has normal range of motion of her shoulder but does complain of pain with abduction. Dr. Moffitt recommended physical therapy for her tendinitis and continued her same work restrictions. Dr. Moffitt opined on October 22, 2004, after examination of the claimant, that he thinks that she has deltoid bursitis and injected medications. The doctor recommended that she continue to work with her same restrictions. Dr. Moffitt rechecked the claimant on November 1, 2004, and after examination prescribed medication noting that the anti-inflammatory medications have not helped in the past so they are trying something different. The claimant was also prescribed Darvocet and she was to continue her physical therapy to include

therapy on her right shoulder. On November 15, 2004, Dr. Moffitt writes that the claimant has been seen for tendinitis of the right wrist and forearm as well as right deltoid bursitis. The doctor notes that the claimant has been in therapy and reports that this seems to be making her shoulder worse. Dr. Moffitt notes that the claimant's wrists are not causing her as much trouble and she is tolerating her job. Upon examination, Dr. Moffitt notes that the claimant weighs 242 pounds and is in no particular distress. The doctor assesses the claimant's condition as stable and did not recommend any further treatment except to continue her home exercises. Dr. Moffitt released the claimant to full duties with no return appointment and no permanent impairment. Dr. Vandergriff writes a note on December 13, 2004, that the claimant should be excused from soldering for one week. The claimant was seen by Dr. Matthew Coker on December 28, 2004, for her complaints of right shoulder and arm pain. After taking a history from the claimant and a physical examination, Dr. Coker notes that the claimant's MRI shows a possible partial rotator cuff tear versus complete rotator tear. Dr. Coker notes that the claimant does have a little fluid in the subacromial bursa which is consistent with the bursitis which she had an injection. Dr. Coker assessed the claimant with having right rotator cuff tendinitis or impingement for which she had undergone therapy. He also diagnosed her with tennis elbow. Dr. Coker recommended physical therapy and recommended anti-inflammatory and gave her some samples of other medications. Dr.

Coker also recommended that she work at light duty noting that her conditions are likely due to a flair up from over use.

The claimant was again seen by Dr. Coker on June 20, 2005, for reevaluation of her right shoulder. The claimant was complaining of increased pain in her right shoulder, noting that the pain is going up into her neck and that she has some numbness and tingling in her right hand. The doctor notes that the claimant denies any further injuries to her shoulder. After examination, Dr. Coker assessed the claimant with having right shoulder impingement with partial rotator cuff tear, noting further that it appears that she does have a significant problem with her cervical spine for which he would like to have a specialist review. Dr. Coker writes that he would like to get some idea as to the source of her pain which would indicate she would require surgery. Dr. Coker writes on June 27, 2005, that the claimant has been to see Dr. Raben who has assessed her cervical spine problems. The claimant reported to Dr. Coker that Dr. Raben finds no significant problem with her cervical spine and feels that the majority of her problems are coming from her shoulder. Dr. Coker notes that the claimant's experience with physical therapy has not been successful in that she has not improved. The doctor notes that the claimant would like to have something done so that she can get back to full duty work. Dr. Coker recommended a distal clavicle resection acromioplasty and to inspect her rotator cuff tear with possible repair if necessary. The claimant had surgery on her right shoulder on July 11, 2005, performed by Dr. Coker. Post operative diagnosis was right

shoulder acromioclavicular arthrosis with impingement and it was noted that there was no significant rotator cuff tear. The claimant was seen in July and August 2005 for follow up after her shoulder surgery. Dr. Coker writes on January 17, 2006, that his medical records and charts and narratives regarding the claimant are supported by objective medical findings and are stated within a reasonable degree of medical certainty and that based on these objective medical findings and within a reasonable degree of medical certainty, it is his opinion that the claimant sustained a work related injury on July 15, 2004, which is the major cause of her need for medical treatment and resulting disability. Dr. Coker writes on February 3, 2006, to the claimant's attorney that he has been treating the claimant for her shoulder problems since December 2004. Dr. Coker sets forth his operative procedure and indicates that she was released to go back to work without restrictions on October 17, 2005. Dr. Coker writes in his letter;

“The temporal association of the pain in the shoulder with injury at work in July 2004, indicates that it was work related. Some of the arthritic changes may have been present before, but were asymptomatic. Therefore, I believe the impingement and rotator cuff tendinitis to be associated with work conditions and injury.”

On March 17, 2006, Dr. Coker writes that he has seen the claimant for evaluation of her right upper extremity. The doctor notes that she has tennis elbow as well as DeQuervain's. After examination, Dr. Coker notes that he thinks that her DeQuervain's is coming back, therefore, he recommended that she rest for a few days and wear a cockup splint at work. Dr. Coker writes on April

14, 2006, that he has again seen the claimant for her right shoulder impingement and right DeQuervain's disease. Dr. Coker notes that the claimant reports that she still has some shoulder pain but it is improving. Dr. Coker then gave her recommendations for her DeQuervain's. After examination, Dr. Coker assesses the claimant with having over use symptom of the right upper extremity with no symptoms of carpal tunnel syndrome. Dr. Coker recommended that she undergo a nerve conduction study. Dr. Gary Moffitt writes on May 1, 2006, to the respondents' attorney setting forth that after reviewing the claimant's medical information, it appears that Dr. Coker found that the claimant had osteoarthritic spurring present at the time of her surgery. Dr. Moffitt further notes that there was no evidence of any rotator cuff inflammation or tear and that the operative procedure which Dr. Coker performed dealt with her spurs. Dr. Moffitt writes that the claimant's work was not the cause of her spurs and that her work was unlikely to have been a significant aggravation to her problem. Dr. Moffitt writes that he feels that the spurs occurred as part of her osteoarthritic disease process and was the major cause of her problem.

In Dr. Coker's deposition taken on May 23, 2006, the doctor stated that based on the information received by him from the claimant concerning her complaints of right shoulder pain and tennis elbow, her problems were due to over use. Dr. Coker noted that he did feel crepitus in the claimant's right shoulder upon examination. Dr. Coker testified that he performed surgery on the claimant's right shoulder on July 11, 2005, to remove bone spurs.

Dr. Coker agreed that bone spurs are a degenerative condition. Dr. Coker further agreed that bone spurs or osteophytes are not brought on by trauma it is just something that occurs over time. Dr. Coker testified that upon inspection of the claimant's rotator cuff she did not have a tear and agreed that the claimant's right rotator cuff is within normal limits. Dr. Coker testified that the claimant's osteophytes were the source of her pain. Dr. Coker explained that he often sees people who are doing very well for a long period of time and then something happens and they start having pain in their shoulder. Dr. Coker continued to explain that he will see someone after an automobile accident who had been doing fine before and afterwards they have severe pain in their shoulders which if not made better by conservative means, they have to go in and take out the osteophytes. Dr. Coker explained that the impingement would be primarily the osteophytes and agreed that once the osteophytes are taken away, the pain is reduced. Dr. Coker testified that it is the pressure from the roughness of the spurs that can cause inflammation in the shoulder which causes bursitis at which time then the bursa in the shoulder will become inflamed and swollen and there will be a lot of pressure in that area that is impinged. Dr. Coker testified that he has not released the claimant to return to regular duty work due to the other problems she is experiencing in her right upper extremity but if her only problems were her right shoulder, he would think she could go back and try regular duty work. Dr. Coker then went into a discussion about the claimant's other right extremity problem such as her

tennis elbow and wrist problems. Dr. Coker noted that the nerve conduction test done on the claimant's right wrist were normal. Dr. Coker agreed that the claimant is short and that this would have an affect on how much she is having to reach up to perform her work duties. Dr. Coker testified that by the claimant's history related to him as to her job activities, these activities were described as what was bothering her. Dr. Coker testified that she explained to him that when she would lift up and do things that is when it would really bother her shoulder. Dr. Coker explained that even when the claimant is not working above shoulder level or at shoulder level there is shoulder involvement. The doctor stated that he has seen people with shoulder problems caused by typing or using a computer so it would be difficult for him to picture something where she is not using her shoulder.

On cross examination, Dr. Coker agreed that the fluid found in the MRI which the claimant underwent in her right shoulder would be an objective finding. Dr. Coker testified that the surgery he performed on the claimant decompressed her shoulder, meaning that he took away the distal clavicle by getting rid of the AC joint. Dr. Coker explained that the claimant still has a joint there but it is not where two bones come together, noting that there is a small gap because some of the bone is gone and you do not have to worry about rubbing which would cause irritation or pain in that area. Dr. Coker testified that they got rid of the bone spurs that put pressure underneath the acromion where it may be causing inflammation. Dr. Coker testified that overuse is usually made

painful by inflammation caused in an area by something such as bone spurs. Dr. Coker testified that he did not think that the claimant's degenerative process was accelerated by her work. The doctor stated that based on the claimant's history he does believe that her work had a part to do with her problems. Dr. Coker agreed that the claimant's work and overuse made her bone spurs symptomatic which made them hurt.

On redirect examination, Dr. Coker testified that when he operated on the claimant's shoulder and could visually see what was going on he did not see any tears in the rotator cuff area nor did he see any abnormality of the subpraspinatus tendon. Dr. Coker testified that fluid in the bursa is an indicator of inflammation in the bursa of the claimant's shoulder. Dr. Coker explained that inflammation can be caused by many things such as overuse, impingement, tendinitis, any kind of infection would cause inflammation.

On recross examination, Dr. Coker agreed that the fluid which was seen in the bursa is consistent with overuse. Dr. Coker testified that he did not disagree with the findings on the MRI as they pertained to the subpraspinatus but they were not significant enough for him to note in his operative findings.

After a complete review of this case, I find that the claimant has proven by a preponderance of the evidence that her work activities for the respondent has exacerbated a preexisting degenerative condition which she had in the form of bone spurs in her right shoulder. The claimant, in her testimony as well as in

her deposition, has testified to many different events which caused pain and difficulty with her shoulder. She has described changing out a die and cranking the die to its current dimensions which during this cranking motion she felt a pop in her shoulder and immediate pain. She has testified that soldering caused pain in her right shoulder and she has testified or agreed that in her deposition she indicated that when she dropped a die and caught it, this hurt her shoulder or at least hurt her shoulder more after it was already hurting. The claimant unfortunately is not particularly sophisticated and, therefore, not a good historian but after a review of her testimony as to her job activities, a review of the CD disc as well as the testimony of her co-worker it is quite clear that the work which she performs for the respondent are both rapid and repetitive and that she is doing it in a position which would cause strain on her right shoulder. The claimant has testified and the medical records set forth that she is unusually short, 4'11" and that she is obese, weighing 240 pounds plus. Her physical limitations, therefore, require her to have to reach higher than what a normal employee might have to do under the same circumstances. It is clear that the claimant's bone spurs were not a result of her work for the respondent and Dr. Coker has affirmed this position. However, the work which she performed for the respondent resulted in overuse which inflamed the area around the spurs causing her discomfort and pain requiring medical treatment. Ark. Code Ann. §11-9-102(4)(A)(ii) sets forth: "Compensable injury" means:

An injury causing external or internal physical harm to her body and arising out of and in the course of employment if it is not caused by specific incident or is not identifiable by time and place of occurrence if the injury is (a) caused by rapid repetitive motion.

Arkansas law requires that an injury must arise out of and occur in the course of ones employment, that the injury must cause internal or external physical harm to the body and that there is objective medical findings of injury. It is my opinion that the claimant has met all the criteria to prove a gradual onset type injury to her right shoulder. The claimant has testified that she began to experience her discomfort while working for the respondent doing the various tasks which she was required to do during her shift in a rapid and repetitive manner. The claimant's MRI revealed fluid in the bursa area which is indicative of inflammation and Dr. Coker, during surgery, physically observed and removed bone spurs from the claimant's shoulder area. Dr. Coker has clearly stated that it is his opinion that although the claimant's bone spurs were not caused by her employment, her overuse syndrome brought on by her employment activities did inflame the bone spur areas in her shoulder causing her discomfort and required the need for surgical intervention. Therefore, the respondents should pay for all reasonable and necessary medical care for the treatment of this claimant's right shoulder.

I find that the claimant has failed to prove by a preponderance of the evidence that she is entitled to temporary total disability from June 30, 2005, to October 19, 2005. It would

seem logical that the claimant would have some time off work following her right shoulder surgery, however, there is nothing in the medical records to indicate that Dr. Coker took her off before her surgery or kept her off work completely following her surgery. It is clear that he released her to return to full duty work as to her right shoulder was concerned on October 17, 2005. In Dr. Coker's letter dated February 3, 2006, he sets forth that she was restricted as far as her work activities at work were concerned until he saw her on October 17 at which time he let her go back to work without restrictions. Therefore, no TTD will be awarded in this matter. Since an allegation of a back injury is not at issue before the Commission at this time, the failure to report a back injury will be addressed.

FINDINGS & CONCLUSIONS

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.
2. On all relevant dates, the relationship of employee-employer-carrier existed between the parties.
3. The claimant is entitled to a weekly compensation rate of \$327.00 for temporary total disability and \$245.00 for permanent partial disability.
4. The claimant filed her AR-C with the workers' Compensation Commission on November 28, 2005.
5. The claimant has proven by a preponderance of the evidence that she exacerbated a pre-existing condition in her right shoulder

requiring medical treatment and surgery as a result of her work activities. See discussion above.

6. The respondents should pay for all reasonable and necessary medical treatment for this claimant's right shoulder injury.

7. The claimant has failed to prove by a preponderance of the evidence her entitlement to temporary total disability. See discussion above.

ORDER

The claimant has proven by a preponderance of the evidence that she exacerbated a pre-existing condition in her right shoulder due to her work activities with the respondent. Therefore, the respondents should pay for all reasonable and necessary medical treatment for this claimant's right shoulder injury.

The claimant has failed to prove by a preponderance of the evidence that she is entitled to temporary total disability from June 30, 2005, to October 19, 2005.

IT IS SO ORDERED.

ELIZABETH DANIELSON
ADMINISTRATIVE LAW JUDGE