

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F510516

JAMES SKINKIS, Employee	CLAIMANT
NEXT SOURCE, Employer	RESPONDENT
HARTFORD INSURANCE COMPANY, Carrier	RESPONDENT

OPINION FILED MAY 4, 2006

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

Claimant appearing *pro se*.

Respondents represented by TOM HARPER, JR., Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

On April 12, 2006, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on January 19, 2006, and a pre-hearing order was filed on January 20, 2006. 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 employee-employer-carrier relationship existed between the parties at all relevant times.

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

1. Compensability of carpal tunnel syndrome.
2. Temporary total disability benefits.
3. Medical benefits.

At the time of the hearing the parties also agreed to add as an issue the claimant's correct compensation rate.

The claimant contends he suffered carpal tunnel syndrome as a result of his employment with respondent. He requests temporary total disability benefits and payment of medical expenses.

The respondents contend the claimant did not suffer a compensable injury.

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 Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The employee-employer-carrier relationship existed between the parties at all relevant times.
3. Claimant has not proven by a preponderance of the evidence that he suffered a compensable injury in the form of bilateral carpal tunnel syndrome. Specifically, objective testing was negative for carpal tunnel syndrome.

FACTUAL BACKGROUND

The claimant has primarily performed labor intensive jobs in the past. Claimant began working for respondent on March 23, 2005 at which time he was sent to work for a company named Symbol which refreshed, repaired, and provided hand-held scanners for Wal-Mart.

Claimant testified that his initial job for respondent was repairing Wal-Mart scanner guns and shipping them back to the stores. After performing this job for about two months the claimant was transferred to another area of the building where he was required to open

boxes of scanners, unload trucks, and stack pallets. Claimant testified that he was required to open several hundred boxes each day.

Claimant testified that approximately two months before he reported his problems on September 7, 2005 he began noticing problems with his hands. He originally thought the problem was the result of sore muscles, but his condition gradually worsened.

As a result of claimant's complaints he was evaluated on September 12, 2005 by Dr. Sitzes who diagnosed claimant as suffering from bilateral carpal tunnel syndrome. Dr. Sitzes provided claimant with braces and work restrictions. The claimant was also seen by Dr. Desilva and Dr. McMillin.

Claimant has filed this claim contending that he suffered a compensable injury in the form of bilateral carpal tunnel syndrome. He seeks payment of related medical treatment and temporary total disability benefits.

ADJUDICATION

Claimant contends that he suffered a compensable injury in the form of bilateral carpal tunnel syndrome as a result of his job activities with the respondent. In order to establish compensability of carpal tunnel syndrome claimant does not have the burden of proving by a preponderance of the evidence that his work duties required rapid repetitive motion. However, the claimant does have the burden of proving three things. First, that his carpal tunnel syndrome arose out of and in the course of his employment. Second, that a work-related injury is the major cause of his disability or need for medical treatment. Third, the compensable injury must be established by objective medical findings. *Kildow v. Baldwin Piano & Organ*, 333 Ark. 335, 969 S.W. 2d 190 (1998).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has not met his burden of proving by a preponderance of the evidence that he suffered a compensable injury. Even though

claimant has been diagnosed as suffering from bilateral carpal tunnel syndrome, a diagnosis is not sufficient in and of itself to establish compensability according to the Arkansas workers' compensation law. The law requires that an injury be established by objective medical findings. "Objective medical findings" are defined at Arkansas Code Annotated §11-9-102(16)(A)(1)(i) as "those findings which cannot come under the voluntary control of the patient." An example of an objective finding would be a nerve conduction study. Claimant underwent a nerve conduction study at the direction of Dr. McMillin on December 2, 2005. That test was interpreted as a normal with "no neuromyographic evidence of median, ulnar, or radial entrapment." Significantly, the report also indicated that there was no "neuromyographic evidence of bilateral carpal tunnel syndrome." Thus, although claimant has been diagnosed as suffering from carpal tunnel syndrome, the only test recognized as objective which has been performed failed to reveal evidence of bilateral carpal tunnel syndrome. Absent an objective test for bilateral carpal tunnel syndrome, the claim cannot be compensable.

Finally, I also note that it was the opinion of Dr. Desilva that claimant's condition was most likely not work related. In a report dated September 27, 2005, Dr. Desilva stated:

This is probably not work related. The pain does not follow the usual pattern in repetitive disorders such as CTS. He has bony tenderness & decreased sensation well into his forearm (along the carpal tunnel) and multiple deformities from broken bones.

In summary, for any injury to be compensable in Arkansas an injured employee must offer medical evidence supported by objective findings establishing an injury. Objective findings would include nerve conduction studies such as the one performed on claimant. However, in this particular case the test was read as negative with no evidence of bilateral carpal tunnel syndrome. Absent objective findings, an injury cannot be compensable. Accordingly, the elements of a compensable injury have not been satisfied

in this case.

ORDER

Claimant has not proven by a preponderance of the evidence that he suffered a compensable injury in the form of bilateral carpal tunnel syndrome. Objective testing was negative for bilateral carpal tunnel syndrome. Claimant's claim for compensation benefits is denied and dismissed.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE