

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F409134

ALBERTA STICKLER, Employee	CLAIMANT
THE MORNING NEWS, Employer	RESPONDENT
SPECIALTY RISK SERVICES, Carrier	RESPONDENT

OPINION FILED APRIL 25, 2006

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

Claimant appearing *pro se*.

Respondents represented by R. CHRIS PARKS, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

On April 5, 2006, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on February 8, 2006, and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked Commission's Exhibit #1 and made a part of the record without objection.

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

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The relationship of employee-employer-carrier existed among the parties at all relevant dates.
3. The claimant was earning an average weekly wage of \$258.00 which would entitle her to compensation at the weekly rates of \$172.00 for temporary total disability benefits and \$154.00 for permanent partial disability benefits.

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

1. Compensability of right-sided carpal tunnel syndrome.
2. Temporary total disability benefits from November 8, 2004 through January 3,

2005.

3. Medical.

The claimant contends she suffered a compensable injury in the form of carpal tunnel syndrome to her right hand while employed by respondent.

The respondents contend the claimant did not sustain 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 her demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on February 8, 2006, and contained in a pre-hearing order filed that same date, are hereby accepted as fact.

2. Claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury in the form of carpal tunnel syndrome to her right wrist while employed by the respondent.

FACTUAL BACKGROUND

The claimant is a very nice lady who began working for the respondent approximately six years ago. Claimant's first job for the respondent required her to collect money out of newspaper racks. After performing that job for a period of time the claimant switched jobs to collecting money from inside stores. For the last three years claimant has primarily worked for the respondent as a courier and as a filer. As a courier claimant is required to deliver inner-company mail between the respondent's various bureaus in Northwest Arkansas. In addition to her courier job, the claimant also performs filing work,

filing approximately 1500 to 2000 invoices per month.

The medical evidence indicates that claimant underwent a release for left-sided carpal tunnel syndrome on February 6, 2004. This procedure was performed by Dr. Mark Kendall. Claimant is not alleging that her left-sided carpal tunnel syndrome is causally related to her employment with the respondent. The medical records from late 2003 and early 2004 also indicate that claimant had some right-sided carpal tunnel syndrome symptoms at that time, but the medical records do not relate any specific treatment relating to the right hand.

Treatment for the claimant's right-sided carpal tunnel syndrome did not occur until August 2004 when claimant was evaluated by Dr. Kendrick. After Dr. Kendrick's evaluation the claimant was subsequently evaluated by Dr. Heinzelmann, an orthopaedic surgeon, who diagnosed claimant as suffering from carpal tunnel syndrome and a trigger finger. Dr. Heinzelmann eventually performed surgery on claimant's right hand on November 8, 2004.

Claimant has filed this claim contending that her right-sided carpal tunnel syndrome is causally related to her employment with the respondent. She seeks payment of medical treatment and temporary total disability benefits beginning November 8, 2004 and continuing through January 3, 2005.

ADJUDICATION

Claimant contends that she suffered a work-related gradual onset of carpal tunnel syndrome. Pursuant to Act 796 of 1993 claimant does not have the burden of proving by a preponderance of the evidence that her job duties required rapid repetitive motion in order to establish compensability of her carpal tunnel syndrome. *Kildow v. Baldwin Piano & Organ*, 333 Ark. 335, 969 S.W. 2d 190 (1998). However, the claimant does have the burden of proving by a preponderance of the evidence that she suffered a carpal tunnel

syndrome injury which arose out of and in the course of her employment with respondent; that a work-related injury is the major cause of her disability or need for medical treatment; and the compensable injury must be established by objective medical findings. *Smith v. Superior Industries*, Full Commission Opinion filed February 28, 2006 (F408458).

After reviewing the evidence in this case impartially, I find that claimant has simply failed to meet her burden of proving by a preponderance of the evidence that she suffered a carpal tunnel syndrome injury which arose out of and in the course of her employment with the respondent.

As previously noted, claimant was evaluated by Dr. Heinzelmann, an orthopaedic surgeon, who performed surgery on claimant's right wrist in November 2004. Prior to that surgical procedure, Dr. Heinzelmann in a report dated October 4, 2004 had indicated that the claimant's "right carpal tunnel syndrome is most likely work related as she does have repetitive gripping activities with her hands."

Dr. Heinzelmann subsequently changed his opinion with respect to the causation of claimant's carpal tunnel syndrome and the triggering based upon findings during the surgery. According to Dr. Heinzelmann's report of November 15, 2004, he discovered during surgery a knot of fibrous tissue which surrounded both flexor tendons of the middle and ring fingers on claimant's right hand at the level of the carpal tunnel. According to Dr. Heinzelmann's report that knot was excised, sent to a pathologist for examination, and diagnosed as having the characteristics of a rheumatoid nodule. Dr. Heinzelmann noted that the claimant had a history of rheumatoid arthritis in the past and then stated that in his opinion the cause of the claimant's carpal tunnel syndrome and the triggering was the rheumatoid nodule, not claimant's work activities.

I have told her that the apparent cause of her carpal tunnel syndrome and also the triggering of her middle and ring fingers was due to the rheumatoid nodule on the flexor tendons and the carpal tunnel and not primarily due to work activities.

Thus, while Dr. Heinzelmann originally believed that claimant's carpal tunnel syndrome was causally related to her work activities, he subsequently changed that opinion based upon his findings during surgery and the subsequent results from the pathologist. According to Dr. Heinzelmann, the cause of claimant's carpal tunnel syndrome is the rheumatoid nodule which resulted from rheumatoid arthritis, not claimant's work activities. I find that the opinion of Dr. Heinzelmann is credible and entitled to great weight.

Based upon the opinion of Dr. Heinzelmann that claimant's carpal tunnel syndrome is the result of a rheumatoid nodule, not her work activities, I find that claimant has failed to meet her burden of proving by a preponderance of the evidence that the carpal tunnel syndrome injury arose out of and in the course of her employment with the respondent.

ORDER

Claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury in the form of right-sided carpal tunnel syndrome while employed by the respondent. Therefore, her claim for compensation benefits is hereby denied and dismissed.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE