

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F507130

LINDA S. WALKER, EMPLOYEE	CLAIMANT
GEORGIA PACIFIC, CORPORATION, SELF-INSURED EMPLOYER	RESPONDENT
SEDGWICK CLAIMS MANAGEMENT SERVICES, INC., TPA	RESPONDENT

OPINION FILED JUNE 30, 2006

Hearing held before the HONORABLE S. DALE DOUTHIT, Administrative Law Judge, on April 10, 2006, at Fordyce, Dallas County, Arkansas.

Claimant , LINDA WALKER, of Fordyce, Arkansas appeared pro se.

Respondent was represented by HON. SUSAN S. FOWLER, Attorney at Law, of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled claim on April 10, 2006, in Fordyce, Arkansas. A prehearing conference was conducted in this claim on December 7, 2005, and a prehearing order was entered December 8, 2005. The prehearing order set out the stipulations offered by the parties; outlined the issues to be presented at the full hearing, and summarized the parties respective contentions. A copy of the prehearing order was marked Commission Exhibit "1" to the hearing record, subject to the modifications made to it at the full hearing.

The following stipulations were submitted by the parties at the full hearing:

- 1) The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

Walker, Linda/F507130

- 2) The employer/employee/carrier relationship existed at all relevant times, including June 7, 2005.

At the full hearing, the parties agreed the following issues would be litigated and resolved:

- 1) Whether the claimant sustained a compensable carpal tunnel injury to the right upper extremity by gradual onset, or whether the claimant sustained a compensable right upper extremity injury by a specific incident.
- 2) Determination of claimant's applicable compensation rates.
- 3) Whether this claim is barred by the Statute of Limitations.

At the full hearing, the claimant contended that she sustained a compensable carpal tunnel injury to her right upper extremity due to her employment with the respondent employer. That due to her injury, claimant contended entitlement to TTD benefits from August 12, 2005 through October 25, 2005, and all associated medical benefits.

Respondents contended at the full hearing that the claimant cannot meet her burden of proof required to establish a gradual onset injury, or specific incident injury arising out of and during the course of her employment with the respondent-employer, which is identifiable by time and place of occurrence and supported by objective medical evidence. Respondents also contend this claim is barred by the Statute of Limitations.

The record consists of the April 10, 2006 hearing transcript and the exhibits contained therein.

DISCUSSION

At the prehearing conference, the claimant seemed to indicate her right upper extremity problem was due to a gradual onset carpal tunnel condition. However, at the full hearing the claimant testified her right upper extremity problems were due to a compensable specific incident. The claimant was unsure of the date her alleged compensable specific incident injury occurred:

Q. If you don't mind, if you could kind of give me some dates, like when you started having the symptoms.

A. The symptoms was when I first injured my arm. I told my supervisor that it felt like I had disconnected my wrist.

Q. And when was that?

A. I don't remember the date. That's the problem. I don't remember that date.

Q. Okay.

A. But I know that it was two years before I went to my previous job I'm on now, and I've just been over there two years. So it has been four years I know. (T. pgs. 14 & 15, lines 25 & 1-13)

The claimant was again questioned by this Administrative Law Judge as to whether her right upper extremity injury was due to a gradual onset or specific incident:

THE COURT: Would you say that this was a specific incident or a gradual onset?

Walker, Linda/F507130

MS. WALKER: That was a specific incident.

THE COURT: All right. And that is the reason that you are here today? Is that right?

MS. WALKER: Yes. (T. pg. 27, lines 9-16)

The claimant testified that her duties were as follows at the time of her injury:

Q. Can you describe to the Judge what happened?

A. Do you mean how it ----

Q. How you hurt yourself.

A. My job then, I was utility and I was responsible for watching 24 loads of veneer plywood. We make plywood. I worked dryers and each had 12 automatic stackers, where it is automatically stacked the wood down - big sheets. I was over on the other dryer and I looked back, and seen this load over on the other side was messed up. It might have had about that much veneer on top of it, maybe about a foot or so. My job was either straighten that sheet that was messed up or either take it out. I was trying to straighten it up and to straighten it up yo had to shift the top part over to where it was messed up at and then work it back into a straight. That is what I was doing. As I went to pull it out, that's when my wrist - I hurt my wrist. (T. pgs. 17 & 18, lines 12-25 & 1-4)

The claimant testified that she began losing strength in her right hand and that a

Walker, Linda/F507130

knot came up on her hand. The claimant testified that after the knot appeared, she went to Dr. Payne, then to Dr. Clark, and ultimately to Dr Silas for a nerve conduction study. The claimant testified that the nerve conduction study showed she had carpal tunnel; however, the claimant never introduced any medical records to corroborate her testimony.

Whether the claimant was trying to prove a compensable gradual onset carpal tunnel injury pursuant to A.C.A. 11-9-102(4)(A)(ii)(a) or a specific incident accidental injury pursuant to A.C.A. 11-9-102(4)(A)(i), the claimant still had the burden to establish the alleged compensable injury with medical evidence supported by objective findings. (A.C.A. 11-9-102(4)(D).)

In the instant case, the claimant failed to introduce any medical evidence whatsoever. It is unfortunate that the claimant apparently did not know the basic burdens of proof she was required to put forth regarding compensability. However, the claimant was repeatedly instructed by this ALJ prior to the prehearing conference, during the prehearing conference and again at the full hearing of the Legal Advisor Division within the Workers' Compensation Commission. Even at the full hearing, the claimant was told a continuance would be granted should she wish more time to better prepare for a full hearing. The claimant declined a continuance, even though this ALJ advised her it would be granted.

The claimant elected to proceed with the full hearing on April 10,2006, and failed to produce any medical evidence of any injury supported with objective findings. Thus, the claimant failed to prove by a preponderance of the evidence an injury with medical evidence supported by objective findings. The claimant has the burden of proving by a preponderance of the evidence compensability of her claim. **Georgia Pacific Corp. v. Carter**, 62 Ark. App.

Walker, Linda/F507130

162, 969 S.W. 2e 677 (1998). A compensable injury must be established by medical evidence supported by objective findings. **Freeman v. Con-Agra Frozen Foods**, 394 Ark. 296, 40 S. W. 3d 760 (2001).

The claimant failed to establish a basic component of compensability by not introducing any medical evidence, and therefore failed to prove she sustained a compensable injury. Due to claimant's failure to prove compensability of her claim, the other issues outlined herein are rendered moot.

ORDER

The claimant has failed to prove by a preponderance of the evidence a compensable injury with medical evidence supported by objective findings. Therefore, this claim is hereby, respectfully denied and dismissed.

IT IS SO ORDERED.

S. DALE DOUTHIT
Administrative Law Judge

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