

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F700637

MARTHA A. CRISPIN, Employee	CLAIMANT
SUPERIOR INDUSTRIES, Employer	RESPONDENT
CROCKETT ADJUSTMENT, Carrier	RESPONDENT

OPINION FILED JUNE 5, 2007

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

Claimant represented by EVELYN BROOKS, Attorney, Fayetteville, Arkansas.

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

STATEMENT OF THE CASE

On May 16, 2007, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on March 13, 2007, 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 employee-employer relationship existed between the parties at all relevant times.
3. The claimant sustained a compensable injury to her back on July 19, 2006.

At the time of the hearing the parties agreed to stipulate that claimant earned \$14.10 per hour for 40 hours per week. This would result in an average weekly wage of \$564.00 which would equate to a compensation rate of \$376.00 for total disability benefits and \$282.00 for permanent partial disability benefits.

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

1. Additional medical.

The claimant contends that she is entitled to additional medical treatment for her compensable back injury.

The respondents contend that she is entitled to additional medical treatment for her compensable back 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 March 13, 2007, and contained in a pre-hearing order filed that same date, are hereby accepted as fact.

2. The parties' stipulation that claimant earned \$14.10 per hour for 40 hours of work per week is also hereby accepted as fact. This results in an average weekly wage of \$564.00 which would entitle her to compensation at the \$376.00 per week for temporary total disability benefits and \$282.00 per week for permanent partial disability benefits.

3. Claimant has failed to prove by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable low back injury.

FACTUAL BACKGROUND

The claimant is a 43-year-old woman who began working for the respondent in 2001 inspecting wheels on its production line. Claimant testified that this job required her to inspect wheels for peeling, blisters, or other type of damage. In order to perform this job she had to be able to lift wheels which weighed some 40 to 50 pounds and had to pick up

as many as four to five wheels a minute.

The parties have stipulated that claimant suffered a compensable injury to her low back when she was lifting a wheel off a line on July 19, 2006. Claimant reported this incident to her supervisor and was taken to the emergency room where she was diagnosed as suffering from a back strain. Claimant was prescribed medication, exercises, and was given restrictions of no bending, squatting, or standing more than two hours for five days. After five days the claimant would have no restrictions. Following this visit to the emergency room, claimant was next evaluated by Dr. Thorn on July 25, 2006. Dr. Thorn completed Commission Form AR-3 on that date indicating that claimant could return to work with restrictions of no lifting more than 10 pounds and no bending or stooping. He also indicated that claimant should return for a re-check evaluation in one week.

On August 7, 2006 Dr. Thorn completed another Commission Form AR-3. He indicated that this was a final report and indicated that claimant's condition had resolved. He released claimant to return to work as of August 7, 2006 with no restrictions. Claimant did return to work for the respondent but only worked until August 15, 2006 due to the respondent's plant closing. Claimant has not worked for any other employer since that time. Claimant next sought medical treatment from Dr. Wilson and his nurse practitioner, Jayne Moore Pruden, on February 7, 2007. A report of that date diagnoses claimant's condition as low back pain and claimant was provided medication.

Respondent accepted claimant's injury as compensable and paid for medical treatment through August 7, 2006. Claimant has filed this claim contending that she is entitled to additional medical treatment for her compensable injury.

ADJUDICATION

Claimant has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary for treatment of a compensable injury. *Norma*

Beatty v. Ben Pearson, Inc., Full Commission Opinion filed February 17, 1989 (D612291). What constitutes reasonably necessary medical treatment is a question of fact to be determined by the Commission. *White Consolidated Industries v. Gallaway*, 74 Ark. App. 13, 45 S.W. 3d 396 (2001).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has failed to meet her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable low back injury. In this particular case, after claimant reported her injury she was taken by the respondent to the emergency room where she was diagnosed with a back strain. Claimant was taken off work for a couple of days and given restrictions for an additional five days. After those five days the claimant had no work restrictions. Claimant subsequently was evaluated by Dr. Thorn who also provided work restrictions for the claimant. On August 7, 2006, Dr. Thorn indicated that claimant's condition had resolved and he released claimant to return to work with no restrictions. Claimant did not seek any additional medical treatment for her back until she saw Dr. Wilson on February 7, 2007, some six months later. During this six month period of time the claimant had ceased to work for the respondent due to the plant closing and she had also undergone a hysterectomy procedure in September 2006. No medical records from the physicians treating claimant for her hysterectomy were offered indicating that claimant made continued complaints of back pain.

In summary, claimant has the burden of proving by a preponderance of the evidence that her continued back problems in February 2007 are the result of the compensable injury in July 2006. Here, claimant was released by her treating physician on August 7, 2006 to full duty. Dr. Thorn indicated that claimant's condition had resolved as of that date. Claimant did not seek any additional medical treatment for her back until February 7, 2007, more than six months later. Given this evidence, I simply find that claimant has

failed to meet her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable low back injury.

ORDER

Claimant has failed to prove by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable low back injury. Therefore, her claim for additional compensation benefits is hereby denied and dismissed.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE