

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F003992

**SHELLY LEE HOYT,
EMPLOYEE**

CLAIMANT

**JELLY BEAN
JUNCTION, INC.,
EMPLOYER**

RESPONDENT

**UTICA MUTUAL
INSURANCE CO.,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED JULY 31, 2007,

Submitted for decision without a hearing on the record to Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, July 31, 2007, with

Ms. Betty J. Hardy, Attorney at Law, Little Rock, Arkansas, representing the respondents and

Mr. Terence C. Jensen, Attorney at Law, Benton, Arkansas, representing the claimant.

STATEMENT OF THE CASE

This matter comes on for consideration pursuant to a Motion to Dismiss filed on behalf of the respondents.

On March, 2000, the claimant suffered an injury to her right wrist, which was accepted as compensable by the respondents. On May 16, 2000, the Commission received a Form AR-2 indicating that indemnity benefits were being paid to the claimant. On the same date, a Form AR-4 was received by the Commission indicating that the indemnity was suspended because the claimant had returned to work March 29, 2000.

On January 17, 2001, an additional Form AR-4 was filed indicating that medical expenses and additional indemnity benefits had been paid. A medical report dated December 11, 2000, from Dr. Michael M. Moore revealed that the claimant had undergone surgery, a right wrist interosseous

ganglion cyst excision and bone grafting and that her right hand would be immobilized at that time in a cast but that she could perform light duty work that did not involve significant lifting or any repetitive activity or gripping with her right hand. On August 30, 2001, an additional Form AR-4 was received by the Commission revealing that benefits totaling \$18,677.61 had been paid for temporary total disability, permanent partial disability and medical expenses. Her impairment had been rated at 8% to the hand by Dr. Moore.

On or about September 1, 2002, a Form AR-C was filed on behalf of the claimant requesting permanent total disability benefits, medical expenses, and an attorney's fee. This Form indicates that the date of accident was March 2, 2001, rather than 2000. By copy of a letter dated September 10, 2002, directed to the insurance carrier, Ms. Faydeane Gray advised claimant's counsel that the Commission assumed the AR-C was a reference to the March, 2000, date of injury, unless he advised to the contrary. No such advice was received.

On April 21, 2003, a Motion to Dismiss was filed by counsel on behalf of respondents. The administrative law judge advised claimant's counsel to respond within 15 days and, when no response was received, an Order of Dismissal was entered May 12, 2003.

Thereafter, on April 30, 2004, the Commission received a Form AR-C filed on behalf of the claimant requesting additional benefits for the injury to her right upper extremity. On November 3, 2004, an additional Motion to Dismiss was filed on behalf of respondents. Claimant's counsel responded that the claimant intended to prosecute the claim and, on December 17, 2004, an Order was entered respectfully denying the Motion and ordering the claimant to respond to interrogatories previously propounded and ordering respondents to furnish medical records previously requested.

On May 5, 2005, an additional Motion to Dismiss was filed on behalf of respondents. A hearing was scheduled on the Motion for July 12, 2005, after which an Opinion was entered denying the Motion and scheduling a telephone prehearing conference.

After the telephone prehearing conference, the file was transferred to the Office of Medical Cost Containment for a change of physician. On April 28, 2006, an additional Motion to Dismiss was filed on behalf of respondents. This Motion was denied in an Order dated May 5, 2006, which returned the file to the Office of Medical Cost Containment to continue the process of changing physicians. On June 14, 2006, a Change of Physician Order was entered changing physicians from Dr. Moore to Dr. David Rhodes.

On June 11, 2007, the Commission received the current Motion to Dismiss filed on behalf of the respondents. A hearing was scheduled on the Motion for July 31, 2007, and written notice was provided to counsel for the parties. On July 30, 2007, the Commission received correspondence from claimant's counsel stating that there would be no objection to the entry of an Order of Dismissal without prejudice.

Accordingly, the Motion should be, and it is hereby granted, and this claim for additional benefits is hereby dismissed without prejudice.

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge