

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F604998

JACOB H. WALLS, JR., EMPLOYEE

CLAIMANT

MAVERICK TUBE LP, SELF-INSURED EMPLOYER

RESPONDENT

CROCKETT ADJUSTMENT CO., TPA

RESPONDENT

OPINION FILED JUNE 14, 2007

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on April 27, 2007, at Blytheville, Mississippi County, Arkansas.

Claimant appeared pro se.

Respondent represented by the HONORABLE RICHARD A. REID, Attorney at Law, Blytheville, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted in the above style claim to determine the claimant's entitlement to additional workers' compensation benefits. On March 13, 2007, a pre-hearing conference was conducted in the claim, from which a Pre-hearing Order of the same date was filed. The Pre-hearing Order reflects stipulations entered by the parties, the issues to be addressed during the course of the hearing, and the parties' contentions relative to the afore. The Pre-hearing Order is herein designated a part of the record as Commission Exhibit #1.

The testimony of Jacob H. Walls, Jr., the claimant, and Danny Dean Harris, coupled with medical reports and other documents comprise the record in this claim.

DISCUSSION

Jacob Harold Walls, the claimant, with a date of birth of March 18, 1972, has a Master's Degree in Environmental Science and a Bachelor of Science in Chemistry. Claimant currently resides in New Port Richey, Florida. Claimant commenced his employment with respondent in November 2005 as a crane operator.

On January 27, 2006, while discharging employment duties, claimant testimony reflects that he suffered an injury to his right ankle. In describing the mechanics of the accident, claimant testified:

Well, I was trying - using - A bay is the bay next to ours - to kind of give you a layout - there's A Bay, and then there's B. I went over to A Bay because the crain (sic) operator quit. Well, they was trying to get the pipes out, so they told me to go ahead and - everything's full - the racks are full - so they asked me to take the ones at the back table - let it go out the back door. Well, I got to climb up on the back table. There's no ladder - there's nothing there. I mean, you have to climb up on the machine itself and get up on the table to unloose it. I got done. I hopped down, I did. They do cutoff, like where the threads are bad, and the cutoff was about - about that long - about six inches, and it was off a four-inch pipe, and I just - I jumped down. And I did - I just twisted and went sideways and I caught myself before I fell. (T. 8).

Claimant asserts that the injury to his right ankle occurred at approximately 4:30 a.m. during his 7:00 p.m. to 7:00 a.m shift, and was reported to appropriate supervisory personnel. Specifically, claimant maintains that he reported the injury to both his lead man, Mark, and his supervisor, Mike Dribble.

Claimant's testimony reflects that he completed his shift following the accident. When questioned regarding any efforts at seeking or obtaining medical treatment relative to his injury following the accident, claimant testified:

No, they said, well, you'll be okay. Go ahead - he said, the other

crain (sic) man's gone. He said he went home sick. He said I've got to have you, and I said, well, you'll be okay - it'll be okay. You just twisted it, you'll be okay.

Yes, the next night I came in , it was swelled up, and at that time, when I took my boot off that morning, after it happened, it looked like I had grease on the bottom of my foot, and I told my wife, I wonder how I got that with, you know, socks on. I bruised it, it was bruised - it started at the very bottom of my foot. (T. 9-10).

Claimant testified that when he reported back for work on January 28, 2006, he relayed his concerns as well as his need for medical treatment regarding his right ankle injury to his supervisor. Claimant maintains that the supervisor completed the necessary forms as well as injury report on the computer and was told to go to the doctor on Monday, January 30, 2006. Claimant explained that worked 4days on and 4 days, with Sunday being the last day shift.

Claimant asserts that when he attempted to schedule an appointment with Dr. Williams relative to his right ankle injury the earliest that the same could be had was Tuesday, January 31, 2006. Claimant described the condition of his injured right lower extremity as bruised and discolored. Claimant maintains that after Dr. Williams examined the leg he was provided a note for one month of physical therapy at the Spine Institute, and was directed to return for follow-up in two (2) weeks. Claimant added that he was also provided a light duty slip by Dr. Williams.

Claimant testified that he provided the light duty slip to his supervisor and was assured that there would not be a problem. The testimony of the claimant reflects, regarding the job duties that he was assigned upon furnishing the light duty note to his supervisor:

. . . He said, just go back and stand by the - and run the straightener - you just have to stand there and do it - you don't have to do a lot of moving. I said, okay. I did that for, oh, about three weeks, because I was, you know, I went to the deal and all that, and I kept telling them it was still hurting, you know, still wasn't - and even Natasha at

The Spine Institute said she didn't think it looked - it was sprained, but it was more severe than what, you know, I'd been. And I said, well, that's fine. And about the third week, my group had went to Talledega for Nascar, so they had a new foreman come in to take his shift. When I went in to give him the note, he asked me, what's this for? I said, well, it's for my leg. He said, well, we don't have nothing on it. I said, well, what do you mean, you don't have nothing on it? He said, well, we don't have nothing on this. He said, there's no report or nothing. I said, well, the rest of them, I've - got it - brought them in from Dr. Williams. He said, well, I don't know. He called Danny Harris. Danny Harris first told Greg to - Greg Payne's his name - to go ahead and send me home and I said, no, I'm not going home, you know. I can't really afford it. My wife had just - we had just had the baby - I cannot afford to go home - not for something, you know, I didn't have anything to do - you know, I'd bring notes in, and he said, well, we don't have- there's no such thing as light-duty work here at Maverick. But then, later on, Danny Harris called back and said, not a problem, go ahead and let him work - just put him in a chair and let him sit there. Then it all blew up because the foreman didn't report nothing. None of three - they had three injuries before me - or two injuries before me - had not reported the injuries. So, they had a big deal where they called me in the office. They asked me, you know, the plant supervisor, the plant manager, and all came in and asked me a dozen questions. I told them what happened, you know. Mark, the lead man - he was there. He even told them, you know, what happened. So, we did all that, everything was fine. I mean, it go back to it and they told me, okay, we're going to send you - Danny called me and said, okay, we're going to send you to Dr. Yoa. So, I went to Dr. Yoa. Dr. Yoa told me at that time, he said, well, he said if you'd been here a lot earlier, he could have been a little bit more helpful, but I'd had a lot of problems with standing too long on it, or even riding, you know, working the gas pedal or something, and it started swelling up on me. Well, the sent me to the Jonesboro Orthopedic thing and got me a brace where it takes all the pressure off of it and keeps my foot straight. So, I did that, and then Danny put me into the shipping. . . . (T. 12-13).

Claimant maintains that Dr. Yoa also placed him on light duty. Claimant testified that he worked for about two (2) weeks at the guard gate when his duties entailed taking paperwork while he sit in a chair. Claimant added:

and everything was find, and that's the Friday before I was let go. Danny told me, he said, if you feel fine, just go ahead and work your one day and then go - you get four days off, because my shift starts on Saturday. So, I

worked Monday. I was off Tuesday, Wednesday, and Thursday, and Friday. Thursday, I wen in for my check - I didn't have a check. I asked them - I asked her why, and she said, you need to talk to Danny Harris. Well, he's been out of town for a week, and she said, well, he just left a message, you know, don't pay him. (T. 14).

Claimant recounted his conversation with Mr. Harris regarding his employment status:

Well, I called back Friday. Danny didn't get back in till late that afternoon from Dallas - Dallas or Houston - that's where he'd been all week, and he said, well, right now, we're gonna have to let you go. And I said, why, and he said, well, you didn't come in. And I said, well, you told me if I felt good, to work Monday, and be off four days and then I'd go back in. He said, well, we're gonna have to let you go, which I thought was kind of weird anyways, because how did he know what all this was gonna happen, you know, if you've been gone for a week. I thought it was kind of weird. Also, the same day - the same week - the same foreman that started - actually started - he was let go at the same time, which I thought was kind of just a coincidence. (T. 15).

Claimant testified that his employment was terminated by respondent around the first of April 2006. According to the testimony of the claimant from the date of his injury on January 27, 2006, until April 2006, he performed light duty work and was paid his regular wages. Claimant asserts that he was under the care of Dr. Yoa relative to the January 27, 2006, right ankle injury at the time his employment was terminated in April 2006. The claimant testified that the last medical treatment he received was had under the care of Dr. Yoa at the end of April 2006.

The claimant provided testimony regarding the circumstances surrounding his treatment at the Harrisburg Family Clinic relative to the right ankle injury:

. . . What happened is I went back to Dr. Williams for the appointment I had. I got there at 10:00 o'clock with my appointment. At 12:01, all the nurses started walking out and I asked them what was going on, and they said, oh, the doctor had to leave early. Well, I'd sat there for two hours and got, you know, I was pretty tired, so I thought, well, this is kind of, you know, not right. So, I went ahead and went over to my doctor to see, cause I just didn't think - something just wasn't right about it. He

only - every time I'd see him, it was more or less for five minutes, and he just said, oh, you're doing fine, and that was it. (T. 16-17).

While the claimant characterized his visit to Dr. Dowling at Harrisburg Family Clinic as a second opinion, his testimony reflects:

Well, she still looked at it and it still had a little bruising, not much then - it's been a while, and she looked at it and she said, well, there's really not much that she can do. She said that, you know, you're gonna have pain - she prescribed me pain medicine. I said, no, I really don't - I really don't like taking medicine. It's not - I just don't take it. (T. 17).

Claimant's testimony reflect that the one-time visit to Dr. Dowling remains unpaid and totals approximately \$200.00. Claimant maintains that the only unpaid medical bill growing out of his injury is the afore.

Claimant concedes that he did file for unemployment benefits, explaining:

Yes, I did. After the - actually, that Friday they told me that I was let go, that Monday, I went to the unemployment office. I filled out the paperwork, everything was right. A week later, I got a letter saying that they denied me. I called and asked them why, and they said, well , you quit.

I said, no, they told me I was let go. Let go means you're fired or laid off. And he said, well, they told us that you quit. (T. 18).

The claimant did not appeal the ruling regarding his unemployment benefits. Claimant applied for unemployment benefits on April 21, 2006. Claimant maintains that he informed personnel at the unemployment office that he was still under a doctor's care for his injury.

The testimony of the claimant reflects that he did not starting working again until the end of September 2006. Regarding the afore, the claimant testified:

W work for my - John White Realty. I'm a property manager. I can do it, and most jobs I went to apply for - I fount out 90% percent of the jobs you find, either you have to lift 50 pounds or stand on your feet for a long period. At that time I was still, even now, even driving up here,

I still get just a dull pain and stiffness, and Dr. Yoa even told me - he said, you're going to have that the rest of your life, and there's nothing you can do about it. (T. 19).

The testimony in the record reflects that the claimant's wife, who also worked for respondent, ceased her employment at about the same time as the claimant. Claimant denied that his wife quit her job:

She did not quit. She had went over - when she found out she was pregnant, she went to an OB/GYN that was in Jonesboro. They said that they had - a septum - something about her septum - it was long - and that was where the egg was - that if she moved too much or shifted or something hit her, that she could lose the baby. We'd been trying for two years, so they told her, you know, just take - go off on leave. We filled out all the papers. We sent all the papers in for it. (T. 22).

The claimant left for Florida at the end of April 2006. Claimant asserts that he exhausted his efforts to find a job in Arkansas before moving to Florida. Regarding the arrangements in place in Florida at the time of his move, the testimony of the claimant reflects:

Well, my cousin had told me that if I come down there, I could stay with him. He had a house of his own and he paid for everything, you know. He helped me out. He knew I was in a tight spot. (T. 23).

Claimant's testimony reflects that he did "a lot of paperwork" for his cousin in exchange of the rent. Claimant begin earning wages in September 2006. Claimant currently earns \$14.00, per hour as a property manager. Claimant earned \$10.00, per hour during his employment with respondent.

Claimant was unable to explain the absence of a referral to the Spine Clinic in the records of Dr. Williams while maintaining he was so referred. and the fact that the Spine Clinic was in possession of the referral slip. Claimant asserts that the Spine Clinic was paid by respondent. Claimant's testimony reflects that he was paid through the Friday before April 21, 2006.

Claimant asserts that he did not receive a check for one week.

The testimony of Danny Dean Harris reflects that Dr. Williams was one of respondent's designated treating physicians in its MCO. Mr. Harris testified regarding when he first became aware of any problem involving the claimant:

I wasn't aware of any problem with Mr. Walls until March of 2006, when he filed a Form N and notified us that he had a work-related condition. At the time, he had reported that apparently he'd been seeing Dr. Williams as a private patient since January. At the time he reported it to us, he went back to Dr. Williams one more time. I'm not - I could refer - look up the date - but then we referred him to Dr. Yoa, orthopedist, for a complaint of an ankle. (T. 33).

Mr. Harris further testified that pursuant to a light duty release of Dr. Yoa work was provided for the claimant:

Yes, sir, I have a - I had a position - he went to Dr. Yoa, I believe it was the 21st of March - March, yeah. And Dr. Yoa had placed him on restricted duty with limited standing and walking. So I have a position that's a - we commonly fill with employees that have work limitations that involve standing, and it's a scale house position in our traffic office, and we've got a computerized digital scale, where we weigh trucks. And it's a - it almost entirely requires you to sit down for it, so usually when we have an employee with a limitation on sitting or no prolonged standing, we place them in that position, and we gave that to Mr. Walls. (T. 33-34).

Regarding the circumstances surrounding the termination of the claimant's employment with respondent, Mr. Harris testified:

Mr. Walls was assigned to that position in the scale traffic office. We put him there - it's an 8-hour a day, 5 day a week, 8:00 to 4:00 position, so that way I can monitor them and if they have any follow-up care or whatever, that can be taken care of. So we placed him in that position. He went back to Dr. Yoa on the 23rd of March. Dr. Yoa instructed him that he didn't need to return - he had a sprained ankle, issued him a prescription for a support brace which we filled with Dixie Healthcare, and told him to continue with limited walking for another three weeks, so we just - our position was just to leave him in that traffic office for three weeks cause

they're always wanting assistance in there anyway. He was there through the first visit, and - that was on a Thursday, was his - was the visit on the 21st. He was there the next day, on that Friday, except for the time he'd go fill the - get the brace. And then he never returned after that. (T. 34-35).

Mr. Harris denies that there was any discussion with the claimant regarding him returning to his regular shift with a corresponding four (4) days off. Mr. Harris testified regarding his next contact with the claimant:

The next time I heard from Mr. Walls, it was indirectly. I was called by the Payroll Department on the first - the first week of April - it was a Thursday - on that pay period, and they said they had been contacted by Mr. Walls and he was requesting his paycheck for the prior week, which would have been the 26th - 23rd, 24th, 25th, 26th, 27th. When I - the week, of the 27th of March, I went to Texas for the week, and while I was in Texas, I was notified on a - I believe it was that Wednesday - that they hadn't seen Mr. Walls all week, and wanted to know if I had removed him or transferred him to another spot, and I told them, no, as far as I know, he was supposed to be working back there with you. So, they notified me that he hadn't been in to work there, so I called - I called Ed Decker, who was - on his normal job, that's his superintendent - and they hadn't seen him anywhere. He wasn't supposed to be there anyway, but just in case he had decided to go back to work and didn't tell anybody, I called Ed Decker and Decker hadn't seen him. The Traffic Manager who he reported to, Ken Martin, he hadn't seen him. I called my assistant, and he hadn't seen him, so when I returned the next Monday, which would have been - I've got it down here - the following Monday, which would have been the first week of April - March, April, yeah - I got with Mr. Adams at that time. He was our Human Resources Manager, and I said the guy's gone, and Mr. Adams made a comment that his wife had also gone. I didn't even know that he had a wife working there, but he made a comment that his wife had also not come back to work, and Mr. Adams then relieved or terminated him - quit without notice - cause nobody knew where he went. (T. 35-36).

Mr. Harris denies that the claimant ever requested permission to go the Harrisburg Medical Clinic for treatment relative to his ankle injury. Mr. Harris added that such a request would not have been approved because there was a treating physician in Blytheville.

Regarding the claimant's continued employment with respondent following the reporting

of his injury and treatment by Dr. Yoa, Mr. Harris testified:

Yes, sir. Dr. Yoa said that he should remain on limitations for three weeks, and it was our position just to continue in the traffic office for three weeks, and then - so unless he would have requested more medical attention, we would have just, after another three weeks, returned him to his regular position. (T. 38-39).

Mr. Harris maintains that he did not learn of the claimant's right ankle work-related injury until March 2006:

On March - I want to tell you it's the 21st, is when he reported it to us. March 21st, I believe. Now, he said that - when he reported it, he said that it occurred in January, and we went ahead and sent him to the doctor. I'm sorry - it's March 20th, cause I had him fill out a Form N at the same time. This Form N - the blue writing is my handwriting.

This is all my handwriting here. I was - I assisted him with it - in the filling out of the Form N. You can see it's March 20th, but the accident is January 27th, is when he reported that it had occurred. (T. 39).

Mr. Harris testified that respondent did not provide light duty work for employees with non-work related injuries. Further, Mr. Harris offered:

I think on doctor slips for non-work-related conditions, would not have - they're not permitted, and have not been permitted to submit those to supervisors, due to the HIPPA Act. They have to submit those directly to Human Resources, if they submit them. Sometimes we have employees that are under medical care that don't divulge their - any restrictions to us, in order to protect their hours. So, I'm not sure that one went to . . . (T. 43).

The January 31, 2006, limited duty restriction relative to the claimant which was authored by Dr. Williams was obtained from the claimant's personnel file. Mr. Harris explained how respondent came in possession of the document:

Yes, Sir, after I got the Form N and set off for all the doctors' - all the medical information. We had nothing on file until the 21st of March, then I had to release the medical and then we followed through when the employee made the comment that he's been under - you know, he'd been

seeing Dr. Williams as a private-care physician, under out group care, and I had requested copies of the file, so I could forward those on to Dr. Yoa for reference. (T. 43-44).

The medical in the record reflects that the claimant was seen by Dr. John S. Williams on January 31, 2006, and relayed a history of having sustained an injury to his right leg “at work on Saturday around 4:00 A.M.”. In describing he mechanism of the accident, the January 31, 2006, office note reflects, “he kind of stumbled and strained his leg”. The January 31, 2006, office note further reflects:

RIGHT LOWER EXTREMITY: He’s got some mild bruising at his right lower leg in the mid shin area. Everything else is stable. No hematomas. No distal deficits. Everything else looks good. No trouble at the knee or ankle. He bears weight okay. Just a scant limp. Nothing too bad. Pulse is intact.

X-rays today of his right lower leg look fine. No fracture lines are seen in his tib/fib area.

A: 1) Musculoskeletal injury to right lower leg.

P: Give him a scrip for Clinoril b.i.d. and Darvocet prn pain. Put a heating pad on his leg. Get off of it as best he can. See him back here Monday and reassess him. . . . (RX. #1, p. 1).

A light duty slip authored by Dr. Williams during the January 31, 2006, visit relative to the claimant provides for light duty for one week, no walking/standing for extended periods, and prefer sit down job. (RX. #1, p. 2).

The Medial in the record reflects that the claimant was seen by Dr. Julie Dow at the Harrisburg Family Clinic on March 17, 2006. The claimant’s chief complaints, as reflected in the Chart notes regarding the visit, were “right leg pain and chokes when eating”. The examination disclosed “tenderness over the anterior and medial tibia into medial ankle with mild

swelling”. (RX. #1, p. 6-7). The narrative report of Dr Dow regarding the March 17, 2006, visit of the claimant reflects that the claimant’s wife accompanied him to the visit. In addition to relating that he had been having trouble being choked when eating, claimant also relayed complaints regarding a work-related injury. The report reflects, in pertinent part:

The patient states at work in January he fell off a table about waist high and turned his leg. He states he went to the company doctor who X-rayed his knee, although the patient didn’t have pain in this knee, and he states it was likely a muscular injury and was given a course of physical therapy. He states he had some trouble with the paper work from his boss and feels that it is being pushed under the table. The company doctor put him on light duty however, sine he doesn’t have light duty he was give a “different job” the was the same as what he usually does and just as strenuous. He states that after he saw the company doctor, about 3 days after the incident he developed some large bruising around his ankle area the he describes as a ring of black with green coming up from it (proximally). The patient states that this bruising lasted for about 3-4 weeks after the incident and is gone now. The patient states that he has not been prescribed any medication, however, he has been taking Ibuprofen and Advil. He states he isn concerned because the physical therapist told him that a muscular injury should be improved by now. He states he doesn’t know what is going on with his leg and is concerned. (RX. #1, p. 8).

The claimant was seen by Dr. Joseph Yoa, a Blytheville orthopedic physician, on or about March 23, 2006, pursuant to the direction of respondent. The records of Dr. Yoa reflect that the claimant was released to return to regular full-time duty Wednesday May 3, 2006. (RX. #1, p. 5).

Records of the Employment Security Department reflect that the claimant last worked for respondent on April 3, 2006. Claimant submitted his claim for unemployment benefits on April 21, 2006. Unemployment benefits were denied based on a finding by ESD that the claimant left her work voluntarily and without good cause connected with the work. (RX. #1, p. 9-13). The record further reflects that a Form AR-N was completed by the claimant and Mr. Harris on March 20, 2006, regarding the claimant’s January 27, 2006, accident. The Form N reflects that

the respondent was first notified of the claimant's January 27, 2006, injury on March 20, 2006. The Form N bears the claimant's signature and is dated March 20, 2006. (RX. #2).

After a thorough consideration of all of the evidence in this record, to include the testimony of the witnesses, review of the medical reports and other documentary evidence, application of the appropriate statutory provisions and case law, I make the following:

FINDINGS

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On January 27, 2006, the relationship of employee-employer existed between the parties.
3. On January 27, 2006, the claimant earned an average weekly wage of \$410.00, generating weekly compensation benefits of \$273.00/\$205.00, for temporary total/permanent partial disability.
4. On January 27, 2006, the claimant sustained an injury to his right ankle arising out of and in the course of his employment.
5. The claimant was provided a Form AR-N on March 20, 2006, when he notified respondent of his January 27, 2006, injury. Pursuant to Ark. Code Ann. §11-9-701(a)(1), respondent is not liable for incurred medical expenses relative to the compensable injury prior to March 20, 2006, to include the treatment received by the claimant at the Harrisburg Family Medical Center on March 17, 2006.
6. The claimant has failed to sustain his burden of proof by a preponderance of the evidence that he is entitled to the payment of temporary total disability benefits subsequent to April 3, 2006, as a result of the compensable scheduled injury of January 27, 2006, pursuant to

Ark. Code Ann. §11-9-521 and *Wheeler Construction Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W.3d 822 (1993).

CONCLUSIONS

The claimant sustained an injury to his right lower extremity on January 27, 2006, within the course and scope of his employment. Claimant maintains that as a result of the injury he has incurred medical expenses under the care of his family doctor for which respondent is liable. Further, claimant asserts that he is entitled to temporary total disability benefits for the period commencing when his employment was terminated in April 2006, through September 2006 when he obtained new employment. Respondent takes the position that all appropriate workers' compensation benefits have been paid in this claim.

The present claim is one governed by the provisions of Act 796 of 1993, in that the claimant asserts entitlement to additional workers' compensation benefits as a result of an injury having been sustained subsequent to the effective date of the afore provision.

The evidence preponderates that the claimant sustained an injury to his right lower extremity on January 27, 2006. The claimant first obtained medical treatment relative to the injury on January 31, 2006, under the care of Dr. John S. Williams, a Blytheville family practitioner who is also a member of the respondent's MCO. The evidence reflects that the claimant was released to light/restricted duty by Dr. Williams on January 31, 2006.

While the claimant maintains that the January 27, 2006, work-related injury was reported to appropriate supervisory personnel immediately following its occurrence, the evidence preponderates that he continued to work and did not lose time from work as a result of the injury prior to April 3, 2006. Respondent maintain that notice of the claimant's January 27, 2006,

injury was not had until March 20, 2006.

The testimony of Danny Dean Harris regarding the claimant's reporting of his January 27, 2006, injury on March 20, 2006, is supported by the completed Form AR-N. Specifically, the Form N recites the date of injury as January 27, 2006, and the date that the respondent was notified of same as March 20, 2006. Claimant acknowledged completing and signing the Form N. (RX. #2). As noted above, the claimant did not miss any time from work following the January 27, 2006, compensable injury prior to March 20, 2006. Once the injury was reported to respondent on March 20, 2006, claimant was referred to an orthopedic physician, Dr. Joseph Yoa, by respondent.

While the claimant received medical treatment under the care of and at the direction of Dr. John S. Williams subsequent to January 31, 2006, there is no evidence in the record of any unpaid medical bills as a result of the treatment. On March 17, 2006, claimant received treatment under the care of his primary care physician, Dr. Julie Dow at the Harrisburg Family Medical Center. Claimant testified that he went to Dr. Dow for January 27, 2006, right leg injury after waiting two (2) hours for a scheduled return appointment with Dr. Williams only to be told that the doctor was unavailable. However, a review of the March 17, 2006, narrative office note of Dr. Dow relative to the claimant's visit reflects that he was accompanied by his wife, and relayed complaints of having trouble chocking when he eat as well as a history of the January 27, 2006 work-related injury.

According to the claimant the only unpaid bill relative to treatment regarding his January 27, 2006, injury in existence is that from the March 17, 2006, visit to Dr. Dow at the Harrisburg Family Medical Center. Since the evidence preponderates that the claimant did not report the

January 27, 2006, injury to respondent until March 20, 2006, pursuant to Ark. Code Ann. §11-9-701(a), respondent is not liable for the cost of the treatment.

Claimant asserts entitlement to temporary total disability benefits for the period subsequent to the date his employment ceased with respondent in April 2006, until late September 2006, when he obtained new employment. The claimant's January 27, 2006, work-related injury to his right lower extremity is a scheduled injury under the Arkansas Workers' Compensation law, Ark. Code Ann. §11-9-521.

The credible evidence reflects that once the claimant's January 27, 2006, injury was reported to respondent on March 20, 2006, he was referred to an orthopedic physician, Dr. Yoa. Further, following his examination by Dr. Yoa claimant was released to light/restricted duty which was provided by respondent. Specifically, the claimant was assigned to job duties in the scale traffic office, an 8-hour per day, 5-day week job. Claimant last discharged employment duties for respondent on April 3, 2006. Claimant failed to report for work for four (4) days and was deemed by respondent to have voluntarily quit the job. There is no evidence in the record to reflect that the claimant's ceasing work with respondent was related to any physical inability relative to his January 27, 2006, work-related injury to perform his assigned job duties.

According, the claimant has failed to sustain his burden of proof that he was within his healing period and had not been returned to work relative to his scheduled compensable injury such that he would be entitled to temporary total disability benefits subsequent to April 3, 2006. *Wheeler Construction Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W.3d 822 (1993). This claim is respectfully denied and dismissed.

IT IS SO ORDERED.

Andrew L. Blood, ADMINISTRATIVE LAW JUDGE