

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F606650

JENNINGS WRIGHT	CLAIMANT
CRAWFORD COUNTY	RESPONDENT
AAC RISK MANAGEMENT, TPA INSURANCE CARRIER	RESPONDENT

OPINION FILED JANUARY 4, 2007

Hearing before ADMINISTRATIVE LAW JUDGE MICHAEL L. ELLIG in Fort Smith, Sebastian County, Arkansas.

Claimant represented by STEPHEN SHARUM, Attorney, Fort Smith, Arkansas.

Respondents represented by GAIL MATTHEWS, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled claim on October 17, 2006, in Fort Smith, Arkansas. The deposition of Dr. C. Jay Arendall was taken on November 17, 2006. By agreement of the parties, the deposition of Dr. Arendall has been subsequently admitted as Claimant's Exhibit No. 2.

A pre-hearing order was entered in the case on September 13, 2006. This pre-hearing order set out the stipulations offered by the parties and outlined the issues to be litigated and resolved at the present time. A copy of this pre-hearing order was made Commission's Exhibit No. 1 to the hearing.

The following stipulations were offered by the parties and are hereby accepted:

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On all relevant dates, the relationship of employee-self insured employer-TPA existed between the parties.

3. On all relevant dates, the appropriate weekly compensation rates were \$348.00 for total disability and \$261.00 for permanent partial disability.

4. The claim is controverted in its entirety.

By agreement of the parties, the issues to be litigated and resolved at the present time were limited to the following:

1. whether the claimant sustained a compensable injury in the form of bilateral carpal tunnel syndrome.

2. The claimant's entitlement to medical services at the respondents' expense.

In regard to these issues, the claimant contends:

"The claimant contends that during and within the scope of his employment, he sustained bilateral carpal tunnel syndrome as a result of the continuous use of the hand controls to operate a motor grader to the Crawford County Highway Department. On May 15, 2006, the claimant was required to cease work temporarily as a result of his condition and seek medical treatment. The claimant contends he is entitled to medical treatment by Dr. c. Jay Arendall and any referrals from Dr. Arendall for treatment of the bilateral carpal tunnel syndrome."

In regard to these issues, the respondents have not submitted a pre-hearing questionnaire but by their actions have controverted this claim in its entirety.

DISCUSSION

_____The central issue in this claim is stated:

“whether the claimant sustained a compensable injury in the form of bilateral carpal tunnel syndrome.” (Emphasis mine)

The burden rests upon the claimant to prove this alleged compensable injury. In order to meet this burden, the claimant must show that this alleged compensable injury satisfies all of the requirements for a “compensable injury” that are contained in the Act.

The first of these requirements is found in Ark. Code Ann. §11-9-102(4)(D). This subsection requires that the claimant prove by medical evidence, the actual existence of the physical injury or condition, which is alleged to be compensable. This subsection further requires that the actual existence of this physical injury or condition must be supported by “objective findings,” as that term is defined by Ark. Code Ann. §11-9-102(16)(A)(i).

After consideration of all the evidence presented, it is my opinion that the claimant has failed to prove by medical evidence, the actual existence of the injury or condition alleged to be compensable (i.e. bilateral carpal tunnel syndrome). In his initial medical records, Dr. Arendall does make the following statement:

“? Carpel tunnel syndrome.”

However, in his subsequent reports and deposition, he never opines that such a condition actually exists, nor does he attribute the claimant’s upper extremity complaints to such a condition.

There is also no evidence of any “objective findings” to support or substantiate the actual existence of bilateral carpal

tunnel syndrome. In fact, the purely objective electroneurological studies (i.e. EMG/NCV) that was performed on the claimant's upper extremities yield results that would be expressly contrary to the existence of bilateral carpal tunnel syndrome. A review of the claimant's various subjective symptoms and complaints also shows these subjective findings to be inconsistent with a diagnosis of carpal tunnel syndrome.

Although the claimant has expressed symptoms with his hands, this does not automatically mean that these symptoms must have their origin in some type of injury or condition to this particular part of the claimant's body. In fact, the diagnostic testing shows that the most likely cause of the claimant's difficulties with his hands is a chronic C8 bilateral radiculopathy. This is a neurological injury or condition involving the C8 pair of nerve roots where they exit the claimant's neck or upper spine. As respondent's attorney recognized, there are only 7 cervical vertebra. However, anatomically, there are 8 pairs of cervical nerve roots.

The electrodiagnostic studies have been interpreted as showing a "very mild slowing" of the right ulnar nerve in the area of the claimant's wrist. However, such an abnormality would not be consistent with the claimant's bilateral hand symptoms. In any event, such a finding would not show or even support the presence of carpal tunnel syndrome, involving the claimant's left wrist.

Dr. Arendall has consistently diagnosed bilateral ulnar tunnel syndrome. As he indicates in his deposition, this diagnosis

appears to be based upon the claimant's various subjective complaints. In his deposition, Dr. Arendall appeared to be somewhat uncertain as to where the ulnar tunnel was located. If it is in fact located in the area of the wrist, then the objective abnormality noted on the nerve conduction and velocity studies might support the diagnosis of ulnar tunnel syndrome, but only in regard to the right upper extremity.

In summary, the claimant's bilateral C8 radiculopathy and his neurological abnormality with the right ulnar nerve in the area of the right wrist may or may not represent "compensable injuries." However, compensability of these conditions, as well as Dr. Arendall's diagnosis of bilateral "ulnar tunnel syndrome" were not identified as issues to be addressed and resolved at the present time. By agreement of the parties, the only issue regarding compensability dealt solely with bilateral carpal tunnel syndrome. Therefore, this is the only issue that will be addressed in this opinion.

In this regard, the claimant has simply failed to prove by medical evidence, which is supported by objective findings, the actual existence of bilateral carpal tunnel syndrome, and he has failed to prove a "compensable injury" in the form of bilateral carpal tunnel syndrome. I have no alternative, but to deny and dismiss his claim for benefits attributable to the specific injury.

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On all relevant dates, the relationship of employee-self insured employer-third party administrator existed between the parties.

3. On all relevant dates, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$348.00 for total disability and \$261.00 for permanent partial disability, should such benefits have been granted.

4. The claimant has failed to prove by medical evidence, which is supported by objective findings, the actual existence of the alleged compensable injury, in the form of bilateral carpal tunnel syndrome. The claimant's failure to prove this requirement of Ark. Code Ann. §11-9-102(4)(D), prevents a finding of a compensable injury and award of benefits, at the present time.

5. The respondents have denied that the claimant experienced a compensable injury in the form of bilateral carpal tunnel syndrome and have controverted this claim in its entirety.

ORDER

Based upon my foregoing findings and conclusions, I have no alternative but to deny and dismiss this claim.

IT IS SO ORDERED.

MICHAEL L. ELLIG
ADMINISTRATIVE LAW JUDGE