

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F604736

CHAD GULLY

CLAIMANT

RHEEM MANUFACTURING

RESPONDENT

OLD REPUBLIC INSURANCE,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED **APRIL 28, 2008**

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

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

Respondents represented by DIANE GRAHAM, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

A hearing was held on in the above styled claim on January 15, 2008, in Fort Smith, Arkansas. A pre-hearing order was entered in this case on August 29, 2007. 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. On all relevant dates, including July 18, 2005, the relationship of employee-employer-carrier existed between the parties.
2. The appropriate weekly compensation rates are \$254.00 for total disability and \$191.00 for permanent partial disability.
3. The claimant sustained a compensable injury in the form of bilateral carpal tunnel syndrome.
4. There is no dispute over medical services through August 1, 2006.
5. There is no dispute at present over temporary disability benefits.

6. The respondents have accepted and paid permanent partial disability benefits for a permanent physical impairment of 5 percent to the right hand.

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

1. The claimant's entitlement to additional medical services.

In regard to these issues, the claimant contends:

"Claimant was injured on July 18, 2005. His right and left hands were injured while working for Rheem Manufacturing."

In regard to these issues, the respondents contend:

"Respondents contend they have paid all benefits to which the claimant is entitled."

#### DISCUSSION

\_\_\_\_\_The sole issue presented for resolution, at the present time, is the claimant's entitlement to additional medical services. The burden rests upon the claimant to prove that the medical services in dispute represent "reasonably necessary medical services", as that term is used in Ark. Code Ann. §11-9-508. To meet this burden, the claimant must prove that the disputed medical services are necessitated by or connected with his compensable injury and have a reasonable expectation of accomplishing the purpose or goal for which they are intended.

In the present case, the only evidence offered by the claimant to prove that he requires any further medical services for his compensable injury is his own testimony. Although the testimony of a party is never considered uncontradicted, it cannot be arbitrarily disregarded.

At the hearing, the claimant testified that, approximately three months after his release from treatment for his compensable injury of bilateral carpal

tunnel syndrome, his treating physician, Dr. Roger Bise, his previous symptoms returned. He stated that he attempted to obtain additional medical services for these symptoms by contacting the respondent carrier. However, his request for such treatment was denied. This would have been in October or November of 2006, as Dr. Bise initially released and rated the claimant on July 26, 2006 and last saw the claimant on August 1, 2006.

The evidence presented shows that on October 26, 2006, the claimant consulted Dr. Bryan Benafield, an orthopaedic surgeon, for difficulties with his right hand and wrist, which he attributed to a recent employment related injury with another employer. This injury apparently occurred when a large stove fell striking the claimant in the area of his right wrist and hand. The claimant was treated by Dr. Benafield for this new injury through March 28, 2007. It is important to note that during this lengthy course of treatment, Dr. Benafield noted no symptoms or clinical findings of recurrent carpal tunnel syndrome, involving either of the claimant's wrists /hands. Dr. Benafield is a highly competent orthopaedic surgeon. He has particular expertise in the area of diagnosis and treatment of upper extremity difficulties, including carpal tunnel syndrome. He would clearly have noted any findings indicative of this condition. I would also note that an MRI study that was performed at the request of Dr. Benafield, on March 15, 2007, specifically noted that the various anatomical components of the claimant's right carpal tunnel were "unremarkable". This study expressly noted no indication of inflammation or swelling of either the flexor or extensor tendons or fluid accumulation in the area of the carpal tunnel.

In September of 2007, the claimant experienced another alleged employment related injury. This time to his left hand. He was again seen and

treated for this injury by various medical experts. Again, the reports and records of these medical experts fail to note any symptoms or clinical findings that would in any way be indicative of ongoing carpal tunnel syndrome, in either hand. Clearly, such symptoms, particularly in the left hand, would have been noted.

The claimant offers no explanation as to how the recurrence of his bilateral carpal tunnel syndrome symptoms, which he contends reappeared on October of November of 2006, could have been totally missed by numerous medical experts. I simply find it impossible that these medical experts with their particular expertise in the diagnosis and treatment of such conditions such as carpal tunnel syndrome could have repeatedly examined and evaluated at least one of the claimant's hands and wrists and yet totally missed the presence of ongoing carpal tunnel syndrome.

After consideration of all the evidence presented, it is opinion that the claimant has failed to prove that he reasonably requires any further medical services for his compensable bilateral carpal tunnel syndrome. Thus, his request for such benefits must be denied.\_\_\_\_\_

#### FINDINGS OF FACT & CONCLUSIONS OF LAW

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

2. On all relevant dates, including July 18, 2005, the relationship of employee-employer-carrier existed between the parties.

3. On all relevant dates, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$254.00 for total disability and \$191.00 for permanent partial disability, should such benefits have been appropriate.

4. On or about July 18, 2005, the claimant sustained a compensable injury in the form of bilateral carpal tunnel syndrome.

5. There is no dispute, at the present time, over the claimant's entitlement to temporary disability benefits.

6. There is no dispute over the claimant's entitlement to medical services provided through August 1, 2006.

7. The claimant has failed to prove that he has reasonably required any further medical services for his compensable bilateral carpal tunnel syndrome, after August 1, 2006.

8. The respondents have controverted the claimant's entitlement to any medical services for his compensable bilateral carpal tunnel syndrome, after August 1, 2006.

ORDER

Based upon my foregoing findings and conclusions, I have no alternative but to deny and dismiss the present claim for additional medical services.

IT IS SO ORDERED.

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MICHAEL L. ELLIG  
ADMINISTRATIVE LAW JUDGE