

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F711935

EDDIE C. MONARCH, EMPLOYEE

CLAIMANT

DOUBLETREE HOTEL, EMPLOYER

RESPONDENT

EMPLOYERS INS. OF WAUSAU, CARRIER

RESPONDENT

OPINION FILED MARCH 27, 2008

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on March 27, 2008, at Little Rock, Pulaski County, Arkansas.

Claimant appeared pro se.

Respondents represented by the HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted in the above-style claim to determine the claimant's entitlement to workers' compensation benefits. On February 12, 2008, a pre-hearing conference was conducted in this 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 regarding the afore. The Pre-hearing Order is herein designated a part of the record as Commission Exhibit #1.

The testimony of Eddie C. Monarch, the claimant, coupled with medical reports and other documents comprise the record in this claim.

DISCUSSION

Eddie C. Monarch, the claimant, with a date of birth of June 21, 1962, was employed by respondent-employer from May 13, 2007 through September 26, 2007, as the chief engineer. Claimant's employment with respondent-employer was terminated for matters unrelated to his workers' compensation claim.

Claimant denies that he experienced physical complaints, limitations, or restrictions relative to his lower extremities prior to his employment by respondent-employer. There is no evidence in the record to reflect that the claimant sought or obtained medical treatment relative to either his right or left ankle prior to June 2007. Further there is no evidence in the record that the claimant sought or had in place a regular family doctor or primary care physician prior to June 2007.

The credible testimony of the claimant reflects that in the discharge of his regular job duties in his employment with respondent-employer he was required to be on his feet constantly; that his duties entailed substantial walking, climbing stairs, bending; and, at times, crawling. Claimant successfully discharged the physical demands of his job duties without restrictions or limitations prior to June 19, 2007.

The claimant testified that the owners of respondent-employer were in the process of preparing the hotel for same during the pertinent time period. Claimant noted that the carpet on the first floor, the lobby, had wrinkles on it throughout. The credible testimony of the claimant reflects that on June 19, 2007, while walking across the carpet the toe of his right foot caught on carpet causing him to trip. While the claimant did not fall to floor in the afore incident, he noted that he experienced pain in his right ankle in the incident. Claimant did not report the accident to supervisory personnel on the date of its occurrence. Claimant continued to experience

symptoms in the right ankle attributable to the June 19, 2007, accident, which he attempted to treat on his own.

The testimony of the claimant reflects that he was hopeful that the June 19, 2007, tripping incident did not cause any serious or long-lasting problems. Claimant testified that when his symptoms did not abate, but rather continued to worsen, to include swelling and discoloration as well as pain, he decided to report it to appropriate supervisory personnel. On July 9, 2007, claimant again suffered a tripping incident involving the carpet and his right foot. Thereafter, the claimant reported the incident to appropriate personnel of respondent-employer, an incident report was completed, and the claimant was directed to obtain medical treatment at respondent's designated medical provider, Concentra Health Services.

Claimant denies that the complaints relative to his right ankle were the product of a spider bite or the bite of an insect. Further, the credible evidence reflects that the claimant has maintained throughout that the symptoms in his right ankle were the results of tripping on the wrinkled carpet at work on June 19, 2007.

The evidence in the record reflects that on July 9, 2007, the date that the claimant reported his injury to appropriate personnel of respondent-employer he was seen at Concentra Health Services by Dr. Michelle Ibsen. The transcription of the office note relative to the July 9, 2007, visit by the claimant reflects a history of the claimant's injury consistent with his contentions and testimony before the Commission, in terms of the mechanics of his injury. Specifically, the office note transcription recites the history relayed by the claimant: "I got the toe of my shoe caught on the carpet several times since working at the hotel causing injury to my left ankle". (RX. #1, p. 1).

Although the record of Dr. Ibsen's initial records referred to the claimant's left ankle as the injured extremity, the evidence clearly reflects that claimant complained of pain and swelling in the right ankle. The afore was corrected in a March 19, 2008, clarification document from Ms. Joni Pippen, Center Administrator for Concentra Health Services. (CX. #1, p.1).

Dr. Ibsen assessed the claimant's complaint as "left ankle inflammation r/o spider bite" following her July 9, 2007, examination. Claimant's medical treatment under the care of Dr. Ibsen consisted of medication, elevation of the leg and directions of no standing or walking longer than tolerated. Claimant was directed to return to the clinic in follow-up in two days. The July 9, 2007, transcription of Dr. Ibsen also reflects at diagnosis of the claimant's complaint as "ankle sprain". (RX. #1, p. 2).

The claimant was seen by Dr. Ibsen on two (2) other occasions, July 11, 2007 and July 13, 2007, and his complaint was assessed as a spider bite, although the diagnosis was that of an ankle sprain. The credible testimony of the claimant reflects that he presented a photograph of a spider bite to Dr. Ibsen at the time of the July 27, 2007, visit to demonstrate that his right ankle did reflect such a wound. As a consequence of the afore, the claimant was referred to Dr. Jason Stewart, an orthopedic physician. The July 27, 2007, clinic of Dr. Ibsen relative to the claimant's visit, reflects, in pertinent part:

Patient returns for a recheck for the injury stated above.

HISTORY OF PRESENT ILLNESS:

He feels the pattern of symptoms is no better. Patient has been working within the duty restrictions. Pain Intensity Level: 6/10. The symptoms are exacerbated by standing or walking.

* * *

MUSCULOSKELETAL:

Right Ankle: Persistent swelling and exquisite tenderness to palpation over the medial malleolus; erythema without ecchymosis; warmth present and 2 + edematous; no focal lesion. The remainder of the ankle examination was unremarkable.

ASSESSMENT:

1. Ankle pain and swelling.

PLAN:

referral to Ortho

no prolonged standing or walking. (RX. #1, p. 5).

On August 3, 2007, the claimant was seen by Dr. Jason G. Stewart, an orthopedic physician, pursuant to the above referral of Dr. Ibsen. The August 3, 2007, report of Dr. Stewart noted the claimant's chief complaint as medial ankle pain and swelling. The report further reflects, in pertinent part:

Right Foot: There is dark red and reddish brown discoloration on the medial aspect of the ankle directly over the medial malleolus and 4 to 5 cm proximal to this in a 3-cm wide area. No wounds are noted. Slight swelling is noted. There is tenderness in this region. He is neurovascularly intact. There is no deformity of the ankle. There is full range of motion of the ankle.

* * *

ASSESSMENT:

_____ Ankle pain with possible history of some sort of cellullitic response but also with what was presumed to be an ankle sprain. (RX. #1, p. 6).

After undergoing additional diagnostic studies pursuant to the directions of Dr. Stewart, the claimant was seen in follow-up on October 26, 2007. The office note relative to the afore, reflects, in pertinent part:

SUBJECTIVE:

_____ Eddie is here in followup of the lab and other tests that have been done on the right ankle. He is still suffering from swelling and pain in the

ankle. All the lab evaluations were negative. A bone scan and MRI have also been unhelpful in revealing what is causing this inflammation of the ankle. He has had on two occasions a Medrol Dosepak, both of which relieved his discomfort almost completely.

ASSESSMENT:

In my opinion, that would argue that this is an inflammatory condition, as I can not think of why a traumatic condition would be markedly improved by Medrol Dosepak nor an infectious etiology would be improved by Medrol Dosepak so completely. This, however, would argue in favor of an inflammatory condition.

PLAN:

My advice would be to seek rheumatologic consult for a more esoteric diagnosis of some rheumatologic condition, possibly a seronegative arthropathy. In the meantime, instruction and therapy on range of motion and strengthening of the ankle, and followup with me as needed. (RX. #1, p. 8).

The September 27, 2007, radiologist report regarding the claimant's bone scan disclosed diffused uptake within the right ankle consistent with traumatic /inflammatory arthritis. (RX. #1, p. 11).

In a December 7, 2007, correspondence regarding the claimant, Dr. Stewart relayed:

I have been asked to review his medical record and provide a medical opinion as to whether his current treatment condition is related to an ankle sprain or an insect bite.

After review of the records, I believe it is medically probable that his current treatment and condition is related to an ankle sprain and not an insect bite. (RX. #1, p. 9).

The claimant underwent blood work-up at UAMS regarding the rheumatoid arthritis factor, which yield a negative results. (CX. #1).

After a thorough consideration of all of the evidence in this record, to include the testimony of the witness, review of the medical records 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 or about June 19, 2007, the relationship of employee-employer-carrier existed among the parties.
3. On June 19, 2007, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$504.00/\$378.00, for temporary total/permanent partial disability.
4. On June 19, 2007, the claimant sustained an injury to his right ankle arising out of and in the course of his employment with respondents.
5. The respondents shall pay all reasonable related hospital and medical expenses arising out of and in connection with the claimant's June 19, 2007, right ankle injury.
6. The respondents have controverted this claim in its entirety.

CONCLUSIONS

_____The claimant contends that while within the course and scope of his employment with respondent he sustained an injury to his right ankle with required and continues to require medical treatment and for which respondents are liable. Respondents have controverted the claimant's claim for workers' compensation benefits.

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

In order to be entitled to workers' compensation benefits for a specific incident injury the

claimant has the burden of proving by a preponderance of the evidence that he suffered an accidental injury, identifiable by time and place, that arose out of and in the course of his employment, caused internal or external physical harm to his body and required medical services by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102 (4)(A)(i). In the instant claim, the evidence preponderates that the claimant sustained an injury to his right ankle on June 19, 2007, within the course and scope of his employment, which required medial treatment, and which is supported by objective findings. Respondents have controverted this claim in its entirety.

The credible evidence reflects that the claimant did not experience any physical limitations or restrictions relative to his right ankle prior to his employment with respondent on May 13, 2007. Further, the evidence discloses that the claimant successfully discharged his assigned job duties, which entailed substantial walking, standing, climbing stairs and generally being on his feet throughout his work shift.

On June 19, 2007, claimant tripped on carpet in the lobby of respondent-employer, thereby sustaining the injury to his right ankle. Claimant continued discharging his duties, although he did experience symptoms of pain and swelling in the right ankle following the June 19, 2007, accident. The claimant suffered another tripping incident involving the first floor/lobby carpet and his right ankle on July 9, 2007. Following the afore the June 19, 2007 and July 9, 2007, incidents were reported to appropriate personnel of respondent-employer. After an accident/incident report was completed on July 9, 2007, the claimant was directed to respondent's designated medical provider, Concentra Health Services and Dr. Michelle Ibsen, where he received medical treatment.

The evidence preponderates that the claimant relayed a history of tripping at work and sustaining an injury to his right ankle as the basis for his complaints relative to his right ankle and need for medical treatment. The medical records reflect that in addition to tenderness and pain in the claimant's right ankle, the same was also swollen and discolored. Claimant never reported or claimed a gradual onset injury, spider or insect bite as the basis for the complaints relative to his right ankle. Further there is no history of prior complaints or inflammation in the claimant's right ankle prior to the June 19, 2007, work-related accident. The September 27, 2007, bone scan disclosed the presence of objective findings consistent with "traumatic/inflammatory arthritis". After reviewing the claimant's medical records Dr. Stewart opined that the claimant sustained a sprain to the right ankle. The evidence preponderates that the claimant sustained an injury to his right ankle within the course and scope of his employment on June 19, 2007. Respondents have controverted this claim in its entirety.

Ark. Code Ann. §11-9-508 (a) mandates that employers provide such medical services as may be reasonably necessary in connection with the claimant's injury. Claimant continues to experience residuals of his June 19, 2007, compensable right ankle injury and to require medical treatment in connection with same. The evidence preponderates that further medical treatment is reasonably necessary in connection with claimant's compensable June 19, 2007, right ankle injury. Respondents are liable for the afore medical treatment.

AWARD

Respondents are herein ordered and directed to pay all reasonably necessary medical treatment in connection with the June 19, 2007, compensable right ankle injury of the claimant, to include medial related travel, pursuant to Ark. Code Ann. §11-9-508 (a).

This award shall bear interest at the legal rate pursuant to Ark. Code Ann. §11-9-809,
until paid.

Matters not addressed herein are expressly reserved.

IT IS SO ORDERED.

Andrew L. Blood, ADMINISTRATIVE LAW JUDGE