

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F607555

MR. JIMMY WATSON HUSBAND OF MRS. DONNIE WATSON (DECEASED,) EMPLOYEE	CLAIMANT
ARKANSAS COTTON GROWERS ORGANIZATION, INC., EMPLOYER	RESPONDENT NO. 1
AG-COMP SIF CLAIMS, CARRIER	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION FILED JUNE 17, 2008

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH W. HOGAN, on March 19, 2008 at Little Rock, Pulaski County, Arkansas.

Claimant represented by the HONORABLE GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 represented by the HONORABLE BETTY HARDY, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 was excused from attending the hearing.

ISSUES

A hearing was conducted to determine the claimant's entitlement to payment of medical expenses, funeral expenses and dependency benefits.

At issue is whether or not the deceased employee sustained a compensable injury as defined by Ark. Code Ann. §11-9-102. All other issues are reserved.

After reviewing the evidence impartially without giving the benefit of the doubt to either party, Ark. Code Ann. §11-9-704, I find the evidence does not preponderate in favor of the claimant.

STATEMENT OF THE CASE

The parties stipulated to an employer-employee-carrier relationship on July 27, 2005 at which time the deceased was earning sufficient wages to entitle her dependents to a compensation rate of \$205.00 in the event this claim is found to be compensable. Some medical expenses were paid by the group carrier Blue Cross Blue Shield.

The claimant contends his wife, Donnie, contracted Rocky Mountain Spotted Fever when she was bitten by a tick at work on July 27, 2005. Her condition was diagnosed in October, 2005 and an AR-N Form was completed on October 10, 2005. She died on February 9, 2006. The claimant seeks payment of dependency benefits in the amount of \$205.00 weekly, medical expenses and attorney's fees.

Respondent No. 1 contends the claimant cannot prove the February, 2006 death was related to the employment or a tick bite in July, 2005. Her death was caused by a heart condition. Alternatively, in the event of an award, the respondents would not be liable for any benefits before they received notice of this claim in October, 2005.

The following were submitted without objection and comprise the evidence of record: the parties' prehearing questionnaires and exhibits contained in the transcripts along with the depositions of Dr. William Greenman, Dr. Scott Davis, Dr. Susan DeLap, Dr. Sander Van Cleeff and Dr. Jay Connelley incorporated by reference.

The following witnesses testified at the hearing: Mr. Jimmy Watson; his daughter, Robin Watson Denby; supervisor, Chris Barge and adjuster Tammie Hester. Ms. Denby's testimony was corroborative.

The deceased employee, Ms. Donnie Watson (D.O.B. June 17, 1950/D.O.D. February 9, 2006), had a health history of breast cancer and weight loss using Fen-Phen. She began working for the respondent-employer around 2001 as a field unit supervisor checking boll weevil traps at local farms. Data regarding infestation was entered into a computer and used to determine when to spray insecticide on cotton fields. The employees were provided with four wheel drive mule pickups to reach the fields. Mrs. Watson was assigned to monitor numerous farms in two adjoining areas designated Unit 215 and Unit 216.

The claimant, Mr. Jimmy Watson, testified he had also worked for the respondent-employer in the past and was familiar with his wife's job duties. The traps were not always easily accessible; the job was dirty; and she had to shower twice a day.

In late July, 2005, Mrs. Watson found a tick on her inner thigh after she returned home from work. Her husband observed reddened skin. Shortly thereafter she began feeling unwell with fatigue and shortness of breath.

She saw her general practitioner, Dr. Connelly, in August, 2005 who diagnosed asthma. The claimant's condition worsened and she had to sleep sitting up in a chair in order to breathe. After a blood test in October, 2005 the claimant was diagnosed with Rocky Mountain Spotted Tick Fever, and responded well to an antibiotic, Doxycycline.

Dr. Connelly referred Mrs. Watson to a cardiologist, Dr. Davis who found no evidence of arteriosclerosis. Dr. Davis referred Mrs. Watson to Dr. DeLap, an infectious disease expert, in November, 2005. Dr. DeLap performed a battery of tests.

The claimant died of a heart attack in her sleep in February 2006, unaware of the results of Dr. DeLap's tests and unaware that the respondents denied her claim.

Chris Barge, Mrs. Watson's supervisor, testified she reported the claim on October 10, 2005 and completed a Form AR-N, reporting a tick bite on July 27, 2005 in Unit 215. Computer records show the claimant did not work on July 26, 2005. She did, however, check a trap on July 27, 2005 in Unit 216.

Mr. Barge also testified that the traps were easily accessible because they were placed by the roadside to detect hitchhiking infestations from traveling farm equipment. The traps were also placed by permanent structures so they couldn't be destroyed by farm equipment.

Mr. Barge explained that the boll weevil eradication program began in 2001 and the work was very demanding. However, as the program became more successful, the traps could be placed farther apart thereby lessening the number of traps that had to be checked. Mrs. Watson performed field work 2-1/2 days out of the week in 2005. The program was inactive during the winter months from December to March.

Tammie Hester, the adjuster, testified the claim was denied on November 18, 2005. Some of Mrs. Watson's medical records were sent to a peer review physician who raised questions about the causal connection between the tick bite and her heart attack six months later. The carrier did not have the medical records from Mrs. Watson's cardiologist, Dr. Davis at the time the claim was controverted. Ms. Hester testified that she never notified Mrs. Watson that her claim was denied. Ms. Hester notified the employer, Mark, who was supposed to give Mrs. Watson the news. Mark still works for the respondent-employer, but was not called to testify.

MEDICAL EVIDENCE

_____ In his deposition, Dr. Davis explained that he is board certified in internal medicine, general

cardiology and interventional cardiology. He began treating Mrs. Donnie Watson in November, 2005 by referral from Dr. Connelly for suspected heart failure.

Diagnostic testing revealed elevated pulmonary pressure, leaking of the mitral valve, and reduced ejection fraction (pumping function in the left ventricle). An arteriogram showed no significant coronary artery disease. Patients with a reduced ejection fraction are at increased risk for ventricular tachycardia or fibrillation known as sudden cardiac death.

Mrs. Watson was diagnosed with non-ischemic cardiomyopathy, meaning there was no blockage or compromised blood flow to the heart to explain her symptoms. Myocarditis is an infection of the heart muscle. Dr. Davis prescribed medication (beta blockers, diuretics). In three months, he planned to re-evaluate her. If the medication did not improve her symptoms, a defibrillator device would be considered.

Dr. Davis explained that cardiomyopathy could be caused by 1) Viruses (Coxsackie B, cytomegalovirus, HIV); 2) bacteria (diphtheria, mycobacterial, fungus); 3) parasites (Chagas' disease or toxoplasmosis); 4) alcohol abuse, drugs (chemotherapeutics such as Adriamycin and doxorubicin); 5) metal exposure (cobalt, mercury, lead); 6) nutritional disease; 7) endocrine disease; and 8) Rickettsia which the doctor described as a hybrid between a virus and a bacteria.

Dr. Davis opined that Rocky Mountain Spotted Tick fever was "the most likely culprit of her cardiovascular demise," within a reasonable degree of medical certainty (Depo. p. 8-10, 15, 18-19, 21).

Dr. Davis was aware that Mrs. Watson had breast cancer in 1997. He stated that oncologists usually monitor their patients' cardiac function before, during and after chemotherapy if the patient receives Doxorubicin or Adriamycin. Dr. Davis did not have Mrs. Watson's medical records from

1997 and could not comment on a causal connection between cancer treatment and heart disease, however, if there was a link, he would have expected her symptoms to have developed years ago.

In her deposition, Dr. Susan DeLap testified she is board certified in internal medicine and infectious disease.

Dr. DeLap reviewed the results of the blood tests taken in October 5, 2005 which were positive for exposure to the bacteria, Rocky Mountain Spotted Tick Fever. Based on the lab's classification system, the test showed a titer of 1 to 32. The second test, taken two weeks later on October 27, 2005, also showed a titer of 1 to 32. Past or present exposure to tick fever would be classified as 1 to 16/1 to 64. Recent exposure to tick fever would be greater than 1 to 126. The claimant's IgM short-term rating (immunoglobulins developed in response to exposure to bacteria) was 9. The doctor was unable to determine if the IgM had peaked and was leaving her body or was building as the result of recent exposure. Her IgG was 16 (long term immunoglobulins). Based on these test results, Dr. DeLap was not able to diagnose an acute illness, (Depo. p. 8-9, 11, 14, 17-18, 26, 35-36). In order to make a definitive diagnosis, serologies would have to be evaluated over a longer period of time (6 weeks or more).

Test results from a November 15, 2005 test showed the claimant had been exposed to viruses in the remote past as well (Epstein-Barr, Coxsackie B 3, 4, Parvo).

Dr. DeLap testified she called Mrs. Donnie Watson and gave her the test results, telling her she "could not make any definitive statements as to an infections cause for her cardiomyopathy." In fact, Dr. DeLap testified that cardiomyopathy induced by tick fever was unusual, occurring in 5-25% of patients and the condition was reversible. Untreated, tick fever has a death rate of 23-30 percent.

The condition can be asymptomatic but the symptoms commonly associated with tick fever include headache, nausea, vomiting, diarrhea, joint aches, myalgias, arthralgias, and a rash. The rash varies but usually starts on the palms of the hands and soles of the feet. It becomes densest around the joints of the wrists and ankles. Symptoms can begin within three to twenty-one days after exposure. The tick transmits the bacteria if it remains attached to a person for 24-36 hours.

Dr. DeLap testified that Mrs. Donnie Watson had a hand-sized rash on her right interior thigh which Dr. DeLap did not correlate with tick fever. Also the symptoms of temperature, cough, dyspnea and wheezing recorded by Dr. Connelly are not usually associated with tick fever.

The treatment for tick fever in the acute phase is a tetracycline, usually Doxycycline (100 mg. 2 x daily for 7-21 days).

Dr. Sander van Cleeff is a board certified cardiologist. In his deposition, Dr. van Cleeff testified he reviewed Mrs. Donnie Watson's medical records at the request of the insurance company and issued a report dated September 16, 2006. He was unable to state that tick fever caused the claimant's heart condition (Depo. p. 11-14, 26).

Dr. van Cleeff diagnosed cardiomyopathy, a weakened heart muscle leading to congestive heart failure. The condition was non-ischemic meaning it was not caused by coronary artery disease. Typically the infection occurs months before the patient becomes symptomatic with shortness of breath, fatigue and swelling of the ankles. Tissue biopsy is risky and the results are not always definitive so he thought Dr. Davis' decision to forgo a biopsy was reasonable.

Dr. van Cleeff testified myocarditis is a rare cause of congestive heart failure presenting in only 5-10% of patients. However, he was surprised that Mrs. Watson's condition deteriorated so quickly (Depo. p. 9-10). Other possible causes of myocarditis include Coxsackie virus and the

influenza virus for which the claimant tested positive. Another possible cause is Adriamycin, a drug the claimant had taken, although Dr. van Cleeff agreed with Dr. Davis that drug-induced cardiomyopathy would probably have developed soon after she had taken the drug.

Based on her activity level, lack of a characteristic rash, and exposure to other viruses that could cause cardiomyopathy, Dr. van Cleeff was unable to causally relate the claimant's death to a tick bite.

Dr. Van Cleeff testified acute tick bite fever should be treated within 5-7 days. Initially, Dr. Connelly treated her for allergies, not tick fever. Dr. van Cleeff conceded that tick fever is difficult to diagnose because the condition can be asymptomatic or the symptoms can mimic other conditions.

Mr. Davis: If the Rocky Mountain Spotted Fever is not treated within five to seven days with the provision of Doxycycline, would that not make it more likely, Doctor, that a person would suffer the permanently damaging effects of the Rocky Mountain Spotted Fever?

Dr. van Cleeff: I would think so.

Mrs. Watson did have a blood test on March 29, 2005 which was positive for influenza.

Mrs. Hardy: Would that be close enough in time to have caused the myocarditis and subsequent heart condition Mrs. Watson had that was diagnosed in October or November of 2005?

Dr. van Cleeff: Absolutely. In fact, that would probably be – the time frame that we would see a myocarditis cardiomyopathy occur after a viral infection is usually three to six months after an actual infection.

Dr. Van Cleeff testified the flu virus or Coxsackie virus was much more common than Rocky Mountain Tick Fever.

In his deposition, Dr. William Greenman, a board certified internist with a one-year

fellowship in infectious diseases, explained that he had been in private practice for 33 years and presently lives in Kentucky.

Dr. Greenman reviewed Mrs. Watson's medical records at the request of the insurance carrier and issued opinions on November 18, 2005 and September 2006 concerning the causal connection. Dr. Greenman opined that it was highly unlikely that Mrs. Watson developed a heart condition as a result of a tick bite.

Dr. Greenman noted that diagnostic tests performed in October revealed a weakly positive titer (1-32) indicating remote exposure to Rocky Mountain Spotted Fever. If Mrs. Watson had been exposed to Rocky Mountain Spotted Fever in July, he would have expected the titer to be higher (128). Titers peak in 2-3 months after exposure and diminish over time. Based on the Lab Corp. tests, Dr. Greenman testified that Mrs. Watson's exposure to Rocky Mountain Spotted Fever was at least a year old or more.

Both Coxsackie virus and tick bacteria can cause myocarditis but Coxsackie virus is much more common. After reviewing Dr. DeLap's test results for various viruses, Dr. Greenman testified it was more likely that Mrs. Watson's heart condition was caused by Coxsackie virus Type B. Mrs. Watson's titers for this common environmental virus were moderate to high in November 2005, suggesting recent exposure.

After exposure to Rocky Mountain Spotted Tick bacteria, a patient will develop symptoms within 3-20 days. These symptoms include headache, fever, muscle aches, general malaise, and rash (spreading from the wrists and ankles to the palms of the hands and the bottom of the feet).

Dr. Greenman felt that Mrs. Watson's symptoms, shortness of breath and a rash on the upper leg, were not characteristic of Rocky Mountain Spotted Tick Fever. He also stated that patients

usually recover from tick-related myocarditis and it is unusual for the case to evolve into cardiomyopathy, Mrs. Watson's diagnosis.

Cardiomyopathy is a weakening of the heart muscle leading to stretching and a dilated heart. Dilated cardiomyopathy is frequently attributable to viral infections of the heart muscle. Dr. Greenman stated that "we don't know for sure" if cardiomyopathy is associated with a bacterial infection, like tick fever.

Dr. Greenman opined that Mrs. Watson's symptoms prior to July (flu, coughing, achiness, dyspnea, wheezing) and immediately after July (lung tightness, shortness of breath, fatigue, smothering spells, sore throat) were not indicative of tick fever or Coxsackie virus.

Dr. Jay Connelly, general practitioner, testified he began treating Mrs. Watson on March 29, 2005, for a non-productive cough, shortness of breath, wheezing and a sore throat. She was diagnosed with the flu based on a swab test.

Mrs. Watson returned on April 28, 2005 with a productive cough, aching, chest tenderness, shortness of breath, wheezing, fever, and a runny nose. She was diagnosed with bronchitis.

On August 18, 2005, Mrs. Watson was treated for asthma. Her temperature was normal and her symptoms were chest tightness and shortness of breath.

The claimant returned on September 29, 2005, complaining of fatigue. A blood test, limited to common ailments such as a thyroid problem, strep throat and mono, came back negative. Her temperature was normal.

On October 5, 2005 a second blood test, expanded to include other diseases, was administered. This test was positive for Rocky Mountain Spotted Fever. Again, the claimant's temperature was normal. Dr. Connelly prescribed Doxycycline.

The claimant returned on October 27, 2005, noting improvement, but she still had shortness of breath. The tests were repeated and the titer was still positive for tick fever.

On December 8, 2005, Dr. Connelly prescribed Doxycycline again.

Dr. Connelley testified he did not recall the claimant reporting a tick bite. The blood panel was expanded because the limited test came back negative. He stated her symptoms could be associated with either asthma or congestive heart failure. He deferred to the cardiologist and infectious disease expert to address the causal connection.

FINDINGS AND CONCLUSIONS

The Commission has the duty of weighing medical evidence as it does any other evidence, and the resolution of any conflicts in the medical evidence is a question of fact for the Commission. See Bartlett v. Mead Containerboard, 47 Ark. App. 181, 888 S.W.2d 314 (1994).

As I interpret the evidence of record, Mrs. Watson began experiencing respiratory problems after she was diagnosed with the flu in March. She was bitten by a tick in July 2005 and developed rash on her thigh, but no fever. Her symptoms worsened and in September and October her general practitioner performed blood tests which proved positive for exposure to Rocky Mountain Spotted Tick Fever. Mrs. Watson saw a cardiologist who found no evidence of arteriosclerosis and concluded that tick fever weakened her heart muscle, causing congestive heart failure. Mrs. Watson died in February, 2006.

Depositions were taken of several physicians. Mrs. Watson's cardiologist, Dr. Davis and her general practitioner, Dr. Connelly opined that her death was caused by tick fever. The cardiologist hired by the carrier for a second opinion, Dr. van Cleeff, testified the flu weakened her heart and the tick bite in July had no bearing on the case. The infectious disease expert, Dr. DeLap testified the

test results were inconclusive. Based on the titers, her exposure to tick fever could have been recent with the antigens just beginning to build up or the exposure could have been remote and the antigens were on the decline. There was no way to be certain without more testing. Dr. Greenman, an internist with a sub-specialty in infectious medicine, was hired by the carrier for a second opinion. He opined her exposure was remote based on the IgG titer in the tests performed by Dr. Connelly.

As I understand the expert testimony, the symptoms Mrs. Watson described to Dr. Connelly are not associated with tick fever and the lab results cannot confirm a recent exposure to tick fever. Her symptoms of shortness of breath, associated with congestive heart failure began before the tick bite. Therefore, I find the claimant has not met their burden of proof by a preponderance of the evidence of record.

1. The Workers' Compensation Commission has jurisdiction of this claim in which the relationship of employer-employee-carrier existed on July 27, 2005.
2. The claimant has failed to prove that the deceased's heart condition is causally related to a tick bite.
3. The respondents are directed to pay the court reporter's fees and expenses associated with transcribing this hearing within thirty days pursuant to Commission Rule 20.

The claim is respectfully denied and dismissed.

IT IS SO ORDERED.

ELIZABETH W. HOGAN
Administrative Law Judge