

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F201868

LEON B. CRAWFORD,
EMPLOYEE

CLAIMANT

SINGLE SOURCE TRANSPORTATION,
EMPLOYER

RESPONDENT

FIDELITY & CASUALTY INSURANCE/
CRAWFORD & COMPANY,
INSURANCE CARRIER

RESPONDENT

OPINION FILED AUGUST 7, 2003

Upon review before the FULL COMMISSION in Little Rock,
Pulaski County, Arkansas.

Claimant represented by HONORABLE JOSEPH P. GRAHAM, Attorney
at Law, Prescott, Arkansas.

Respondents represented by HONORABLE CAROL WORLEY, Attorney
at Law, Little Rock, Arkansas.

Decision of the Administrative Law Judge: Reversed.

OPINION AND ORDER

The respondent appeals an opinion and order filed by
the Administrative Law Judge on November 26, 2002. In that
opinion and order, the Administrative Law Judge found in
relevant part that on February 13, 2002, the claimant
sustained an injury arising out of and in the course of his
employment caused by an "unexplained fall." In addition,
the Administrative Law Judge found that the claimant was
entitled to temporary total disability benefits from
February 15, 2002 through May 3, 2002, and that the
respondents are liable for all reasonable hospital and
medical expenses arising out of the injury sustained on

February 13, 2002. After conducting a de novo review of the entire record, we find that a preponderance of the evidence establishes that the claimant sustained a non-compensable idiopathic fall. Therefore, the Administrative Law Judge's award of benefits must be reversed.

The claimant was employed by Single Source Transportation driving cement tanker trucks. The claimant described an incident that occurred on February 13, 2002 as follows:

Q. What were you doing?

A. I had a load going to Kickapoo, Louisiana, an oil field pad. I got to Kickapoo, Louisiana, got on the pad, and you have to get out and hook up your line from the tank to the blower that blows air into the tank, and the pressure blows the cement out the back end on the pad. I opened the door to step out of the truck. And when I did, my knee gave way.

Q. When you say your knee gave way, how did you come out of the truck?

A. I opened the door, and there are two steps and then the ground. I grabbed hold of the steering wheel, and I stepped out on the last step and put my left foot on the ground, and it just gave way with me.

Q. That last step, is it pretty high off the ground still?

A. It's pretty high.

Q. So it was a long way you had to come down on the last step?

A. A lot of that and the unlevel terrain for the oil field pad and everything, I imagine.

With regard to the height of the lower step off the ground, Ms. Vicky Daingerfield, the payroll and billing person for Single Source Transportation, also testified in relevant part as follows before she was cut off by the Administrative Law Judge on a relevancy objection:

Q. Did you help Mr. Crawford fill out the Form ARN that's in respondent's exhibit one?

A. Yes, I did.

Q. It states on the cause of injury, when the driver climbed down off the cab and left foot touched the ground, his knee gave in. Had bad pain and swelling. Is that the way you remember what he told you that day?

A. Right. You know, I checked with him to make sure I was writing it down correctly.

Q. Are you familiar with how the cement trucks look that your company has?

A. Yes.

Q. The bottom step, when climbing out of the truck, is it still a pretty good distance off the ground? Or is it just a couple of inches, or how would you describe it?

A. Well, for me, it's hard for me to get in. I've gone on one trip, and so I had to have assistance with it.

Q. When you got out of it, could you feel it in your leg when you stepped off down on to the ground?

MS. WORLEY: Your Honor, I object to relevancy on that.

THE COURT: Response, Mr. Graham?

MR. GRAHAM: Your Honor, they're claiming idiopathic injury. We're claiming it happened when he stepped off to the ground. I think the inherent trauma of stepping off of the truck would go to whether or not that caused his injury.

THE COURT: I'm going to sustain the objection.

The claimant's testimony is unclear whether or not he experienced any strain while stepping off the truck onto the ground which might have caused his knee to give way, or whether instead any trauma the claimant experienced occurred as a result of his knee having given way after his foot touched the ground. The most persuasive evidence addressing this question is therefore a history taken by Dr. Frank Hamlin on March 11, 2002, which states in relevant part:

Mr. Crawford is a 59 year-old man who I first saw on 2-20-02 with chief complaint of pain and swelling of his left knee. He had an episode getting out of his truck on 2-13-02, at which time his knee buckled on him. As it did, he did have a twisting, flexion injury to his knee. He said immediately after that, he could hardly walk. His knee became swollen almost immediately and it caused him to limp severely. He had been using a walking stick when I saw him. He said previous to that, he had been having some soreness over the medial side of his knee when he would repeatedly use the clutch in his truck. He evidently drives a large 18-wheeler. He said he has never had any acute episodes like this before....

In diagnostic testing performed after the February 13, 2002 incident, the claimant was diagnosed with both osteoarthritis and a tear of the posterior horn of the medial meniscus. The Administrative Law Judge questioned

the claimant as follows regarding any treatment or problems that the claimant was having prior to the February 12, 2002 incident:

THE COURT: This was the first time that your knee has ever given out from under you?

MR. CRAWFORD: Yes, sir.

THE COURT: And prior to this February 13th incident, do I understand that you have never received any medical treatment for the left knee?

MR. CRAWFORD: That's right.

THE COURT: Had you tried some home remedies for the knee, for the irritation that was in the knee?

MR. CRAWFORD: Yes.

THE COURT: And what remedies had you tried?

MR. CRAWFORD: Some of that liniment stuff from time to time for swelling.

THE COURT: For swelling in the knee? So you had had some swelling in the knee?

MR. CRAWFORD: From time to time.

THE COURT: And there was also some pain in the knee? Was there also some pain?

MR. CRAWFORD: At times, yes.

THE COURT: Take over the counter medication for that?

MR. CRAWFORD: Yes.

Finally, there was some testimony regarding not only the incident in question, and the claimant's problems or lack of problems prior to February 12, 2002, but also about

the difficulty of mashing in the clutch in one particular truck that the claimant drove. The Administrative Law Judge concluded in pertinent part regarding the truck, and any effect it had on the claimant's knee before the stepping incident as follows:

The claimant acknowledged that prior to February 13, 2002, he had experienced irritation in the left knee which manifested itself with pain and swelling. The claimant attributed the irritation to driving his assigned truck in his employment with the respondent. The credible testimony of the claimant reflects that the clutch in his truck was hard to engage and that he had registered complaints to the mechanics regarding same ever since he had been assigned the truck. The truck was assigned to the claimant as a new vehicle. The claimant has had and driven the truck for five to six years.

For our part, we are not particularly clear as to what legal relevance any discussion about the truck clutch might have to the issue presented in this case, since the claimant does not assert that he experienced some type of compensable gradual onset knee injury caused by mashing the clutch, nor has he testified that any alleged clutch-related knee irritation caused his knee to give way when stepping out. Furthermore, we note with interest the claimant's testimony on pages 8-9 of the hearing transcript to the effect that the tanker he was driving on February 13, 2002 "was just one of their tankers. I don't even remember which one it was." While there is no doubt that the claimant was having

problems with the clutch of one of the tankers in the respondents' fleet, we do not see anywhere in the claimant's testimony an indication that he was assigned one particular truck routinely, or that if he was assigned one truck routinely, that the truck he was assigned had the stiff clutch. Interestingly, the only testimony in the record relevant to drivers and truck assignments, aside from the claimant's testimony quoted above, was the testimony of Ms. Daingerfield on page 25 of the transcript to the effect that the claimant drove the same truck the majority of the time, but that drivers sometimes get pulled off their truck.

Adjudication

For an employee's injury to be compensable under the Arkansas Workers' Compensation law, it must result from an injury arising out of and in the course of the employment. An injury occurs in the course of employment when it occurs within the time and space boundaries of the employment, while the employee is carrying out the employer's purpose, or advancing the employer's interest directly or indirectly. City of El Dorado v. Sartor, 21 Ark. App. 143, 729 S.W.2d 430 (1987). The phrase "arising out of the employment" refers to the origin or cause of the accident, so it must be shown that a causal connection exists between the injury and the employment. Gerber Products v. McDonald, 15 Ark. App.

226, 691 S.W.2d 879 (1985). In order for an injury to arise out of the employment, it must be a natural or probable consequence or incident of the employment and a natural result of one of its risks. J & G Cabinets v. Hennington, 269 Ark. 789, 600 S.W.2d 916 (Ark. App. 1980).

However, when an employee sustains an "unexplained" injury at work, the injury is compensable. By contrast, when an employee sustains an "idiopathic" injury at work, the injury is, generally, not compensable because the injury is personal in nature and therefore does not arise out of and in the course of employment. See generally, ERC Contractor Yard & Sales v. Robertson, 335 Ark. 63, 977 S.W.2d 212 (1998); Little Rock Convention & Visitors Bureau v. Pack, 60 Ark. App. 82, 959 S.W.2d 415 (1997). The Court of Appeals explained the distinction in Moore v. Darlington Store Fixtures, 22 Ark. App. 21, 732 S.W.2d 496 (1987):

When one suffers an injury at work, the cause is, obviously, either known or unknown. Larson's treatise on workers' compensation law states that the most common example of a situation in which the cause of the harm is unknown is the unexplained fall in the course of employment and that most courts confronted with that situation have seen fit to award compensation. 1 Larson, *The Law of Workmen's Compensation*, § 10.31, at 3-87 (1985). However, injuries from idiopathic falls do not arise out of the employment unless the employment contributes to the risk or aggravates the injury by, for example, placing the employee in a position which increases the dangerous effect of the fall, such as on a height,

near machinery or sharp corners, or in a moving vehicle. Larson, § 12.11.

The word "idiopathic" is defined in *Webster's Third New International Dictionary, Unabridged* (1976), as (1) peculiar to the individual, (2) arising spontaneously or from an obscure or unknown cause. Although the two concepts are frequently confused, Larson says "unexplained fall cases begin with a completely neutral origin of the mishap, while idiopathic-fall cases begin with an origin which is admittedly personal and which therefore requires some affirmative employment contribution to offset the prima facie showing of personal origin." Larson § 12.11 at 3-314.

Moore, 22 Ark. App. at 25, 732 S.W.2d at 498.

The Arkansas Courts have not recently addressed in any published opinions the distinction between unexplained falls and idiopathic falls where a knee gives way. However, in Vinnie Mae Crawford v. Area Agency on Aging, Full Commission Opinion filed November 18, 1998 (E612996), a majority of the Full Commission reversed an Administrative Law Judge and found that a home health care employee sustained an idiopathic fall, not an unexplained fall, when the preponderance of the credible evidence established that her knee simply gave out while walking across a level floor, and she fell sustaining a severe disk herniation injury as a result of the fall. The Full Commission majority opinion reasoned:

While the claimant does not know, and probably never can know, exactly what biomechanical mechanism caused her legs to give way at the precise moment that she fell, we find that the

emergency room report, the testimony of Ms. King, and the claimant's own August 26, 1996, testimony, establish a prima facie showing that the claimant's fall was caused by a purely personal origin (the claimant's legs simply giving way). Furthermore, since we do not find credible the claimant's testimony that her fall occurred on a wet floor or after a back pinch, we also find that there is no credible evidence in the record of any affirmative employment contribution to the claimant's fall. Consequently, we find that the greater weight of the credible evidence establishes that the claimant's fall was idiopathic. Finally, we note that the claimant's fall occurred on a level surface, and there is simply no evidence to conclude that there was present any stairs, etc., which might have increased the risk of the claimant's sustaining a fall, or which would have placed the claimant in a position which might have increased the dangerous effect of the fall. Therefore, on this record, we are constrained to find that the claimant in the present case sustained a non-compensable idiopathic fall.

In Cathie Mize v. University of Arkansas for Medical Sciences, Full Commission Opinion filed May 17, 2001 (E804727), the Full Commission reversed an Administrative Law Judge and found that a clinical manager who twisted her knee while turning to speak to a co-worker as she walked down a hallway, sustained an injury which was neither idiopathic nor unknown, but was instead work related. A preponderance of the evidence in that case established that as she was walking and turned to speak, Ms. Mize's right foot moved to turn but her left foot remained planted on the floor and her left knee popped and hyperextended. The majority opinion noted that the claimant was not engaged in

the ordinary activities of standing and walking when her injury occurred, but to the contrary, the claimant was in the process of attempting to turn in response to a call from a co-worker at the time her knee popped and her injury occurred. The majority found that the causal connection that existed between the claimant's injury and her employment duties lie in the fact that the claimant was in the process of turning to respond to a co-worker's call at the time the hyperextension knee injury occurred.

In Katrina Skelton v. Washington Regional Medical Center, Full Commission Opinion filed March 7, 2002 (F011984), a majority of the Full Commission reversed an Administrative Law Judge and found that the receptionist-claimant experienced an idiopathic fall when her knee went out from under her causing her to fall as she walked down a set of stairs, approximately two steps above the landing. In reaching this conclusion, the majority opinion noted that, as in Crawford v. Area Agency on Aging, supra, the claimant was conscious and lucid at the time of her fall, there was nothing on the floor, and she did not slip or trip at the time her knee gave out. Under these circumstances, the Full Commission concluded that the claimant experienced an idiopathic fall and not an "unexplained" fall. In addition, the majority opinion found a lack of evidence in

either the claimant's testimony or the medical reports which contained any affirmative indication that the steps themselves either contributed to the risk of injury or to the extent of injury. Therefore, the Commission found that the respondents were not liable for the injuries sustained in the idiopathic fall, even though the idiopathic fall occurred in a stairwell and included apparently tumbling down at least two steps in the course of the fall.

In Monica L. Condrey v. Cedar America, Full Commission Opinion filed February 14, 2003 (E914507), a majority of the Full Commission, as in Crawford, and as in Skelton, found that the respondents were not liable for benefits for injuries sustained in a fall where the claimant's knee simply gave way as she was walking without a slip or stumble incident.

We find that the preponderance of the evidence in the present case establishes that the claimant sustained a non-compensable idiopathic injury. In this regard, we note the essentially undisputed evidence that the claimant's knee simply gave way as he put his foot down on the ground while stepping out of the truck. We further note the lack of any credible evidence indicating that the claimant's job duties caused or contributed to his fall when his knee gave way. In this regard, the claimant's somewhat vague hearing

testimony about an uneven grade notwithstanding, we note the lack of any contemporaneous reports suggesting that the claimant in any way tripped or stumbled as a result of the grade of the ground where the incident occurred. The evidence which indicates that the claimant's knee giving way was caused by a condition personal to the claimant includes: the claimant's testimony that he had experienced some degree of pain and swelling in the knee prior to the incident in question, the medical indications that the 59 year-old claimant had significant osteoarthritis in the knee, and the indication in Dr. Hamlin's March 14, 2002 surgical report at page 34 of Claimant's Exhibit 1, indicating that the tear of the posterior horn of the medial meniscus that he repaired was a "large degenerative tear." Absent any persuasive evidence of some affirmative employment contribution to offset the prima facie showing of a personal origin in the claimant's knee giving way, we find that a preponderance of the evidence establishes that the claimant experienced an idiopathic fall, and not an unexplained fall or a work-related fall. Further, because we find insufficient credible evidence to establish that the claimant's work either contributed to a risk of fall or increased the effect of the fall, we find that the record fails to establish that

the respondent is liable for the injuries sustained in the claimant's idiopathic fall.

Therefore, after conducting a de novo review of the entire record, and for the reasons discussed herein, we find that the Administrative Law Judge's award of benefits must be, and hereby is, reversed.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

JOE E. YATES, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

_____ I must respectfully dissent from the opinion of the majority finding that since claimant's knee injury was the result of an idiopathic fall, claimant is not entitled to benefits.

Claimant drove a cement truck for the employer. It is common knowledge, and undisputed in this case, that the cab of these trucks are "pretty high" from the ground. Claimant described the distance as "fairly high." Additionally, claimant testified that the terrain or ground was "unlevel" and "rough" where he sustained the knee injury. In a report dated June 13, 2002, Dr. Hamlin recorded the following history:

Mr. Crawford is a fifty-nine year old male who I first saw on 2-20-02 with chief complaint of pain and swelling in his left knee. He had an episode getting out of his truck on 2-13-02, at which time his knee buckled on him. As it did, he did have a twisting, flexion injury to his knee.

I do not question the evidence that claimant's knee gave way, because it had to give way when it was injured. However, in my opinion, the mechanism of the injury is not the same as the cause of the fall. The fall was neither idiopathic nor unexplained. It was work related. Claimant stepped onto rough, unlevel terrain from an abnormal height. Accordingly, the Administrative Law Judge's award of benefits should be affirmed.

SHELBY W. TURNER, Commissioner