

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F208765

COURTNEY HARRISON,
EMPLOYEE

CLAIMANT

MR. BURGER OF ARK. INC.,
EMPLOYER

RESPONDENT

AIG CLAIM SERVICES, INC.,
INSURANCE CARRIER

RESPONDENT

OPINION FILED NOVEMBER 17, 2003

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

Claimant represented by HONORABLE JAY TOLLEY, Attorney at
Law, Fayetteville, Arkansas.

Respondents represented by HONORABLE FRANK NEWELL, Attorney
at Law, Little Rock, Arkansas.

Decision of the Administrative Law Judge: Reversed.

OPINION AND ORDER

The respondents appeal and the claimant cross-appeals
an Administrative Law Judge's opinion filed April 30, 2003.
The Administrative Law Judge found, "The claimant has proven
by a preponderance of the evidence that she experienced an
unexplained fall resulting in an injury while working for
the respondent on July 25, 2002." After reviewing the
entire record *de novo*, the Full Commission reverses the
opinion of the Administrative Law Judge. We find that the
claimant sustained a non-compensable idiopathic fall on July
25, 2002.

I. HISTORY

Courtney Harrison, age 17, testified that she began working for Mr. Burger in July 2002. The parties stipulated that the employment relationship existed on July 25, 2002. The claimant testified that she arrived at work around 10 a.m., and that she waited in the employee break area for her shift to start at 11 a.m. The claimant testified that "after I clocked in, I had to start cleaning and everything to get ready and make sure that the store was all right for inspection." The respondents' attorney examined the claimant at deposition:

Q. When you say "cleaning," what were you doing?

A. I was wiping off the tables, and I was cleaning the windows and that sort of thing.

Q. Were you - do you mean from the inside?

A. Yes....

Q. Okay. And what happened after that?

A. The owners came in and they started inspecting, and I just - I started waiting on customers, and just did what I usually do at work....

Q. And how long did you do your normal job before you had the spell?

A. Not very long.

Q. Do you know what time you fell out?

A. No.

Q. And do you remember what you were doing?

A. Well, whenever I passed out I was waiting on a customer, and I just -I just got dizzy and passed out....

Q. And then - the medical records also indicate that you got braces put on at some point.

A. Yes.

Q. When did you get your braces on?

A. Two days before I had my accident at work.

Q. And the records say that you were not eating much; is that right? After you got your braces on?

A. Well, not anything like hard or anything....I could eat as much soft food as I wanted. I never got hungry....

Q. What was the environment of the Mr. Burger that day? I mean, was that a hot day? Cool day? Cold day?

A. It was hot.

Q. Was it hot inside?

A. Yes.

Q. Is it normally hot inside?

A. Most of the time....

Q. And there's something in the file about you told some co-employees that you were feeling hot?

A. Yes....

Q. And had you ever felt hot there before?

A. Not that hot.

Q. I mean, do you think you were feeling hot because it was actually hotter inside that day, or because of something that was going on with you?

A. It might have been because I was having to do more work, and trying to hurry myself more to try to get the place clean and ready for the owners to come in.

Q. Okay. Were you working pretty hard?

A. Yes....I told Johnny that I was hot. I sat down whenever I felt hot and dizzy the first time.

Q. Okay. So you felt hot and dizzy before the actually fainting spell?

A. Yes....I think I sat down just like five minutes before I fainted....

Q. Did you - where did you sit down?

A. In the break room....

Q. Okay. Then after you were in the break room a while, what happened?

A. Well, I saw that there were customers, so I got up to go take their orders, and as I was taking someone's order, that's when I passed out....whenever I came to I was being put on the stretcher....

Q. Was it - do you remember whether it was hotter in the Mr. Burger that day than it normally is, or do you think you were just hotter because you were doing more work?

A. I'm not really sure.

Jack Lee Pierce, II, manager of Mr. Burger, testified that the temperature outside was warm that day. Mr. Pierce

testified that the climate inside the restaurant was "Average. I mean, from what I - I've worked there for three years. I'm used to it. You know, it's - the kitchen stays warmer than the other areas. There is no doubt about that. But I would say that it was probably cooler than it was outside also." Mr. Pierce could not recall any employees complaining that it was too hot inside the store. Robbie Linthicum was also working at Mr. Burger on July 25, 2002. He testified:

Q. Do you remember - were you working there on the day that Courtney had her fainting spell?

A. Yes.

Q. All right. Tell me what the temperature was like inside the building on that day.

A. Normal.

Q. And what was normal?

A. Not too bad. I mean, it wasn't real hot or anything.

The claimant was treated at Northwest Medical Center on July 25, 2002. The claimant reported that she "was standing at register - became lightheaded and dizzy....Last meal = grilled cheese sandwich." It was noted that the claimant "got braces 2 days ago & has not eaten much the last 2 days." Dr. D. Luke Knox reported:

Ms. Harrison is a 16-year-old white female who was at work and developed a syncopal episode, falling to the ground, striking her head with loss of consciousness. CT scan was done and showed a subtentorial subdural hematoma. She is admitted for evaluation....

Dr. Michael W. Morse provided a neurology consultation on July 25, 2002:

Courtney is a 16 year old girl who two days ago was working at Mr. Burger. She felt very hot. She had a syncopal event, fell backwards, hit her head on the floor. She had a brief loss of consciousness and was brought into the hospital. She had a small subdural hematoma, and was admitted. She initially had some nausea and vomiting, but that has resolved. She feels back to normal....

She has never had a syncopal event in the past. She states she just got hot and lightheaded....

Dr. Morse noted under Medications, "Oral contraception injection every three months. Calcium and vitamins." Dr.

Morse gave the following Impression:

This patient had a syncopal event and head injury. She has a small subdural hematoma. MR of the brain shows no significant intraparenchymal change, swelling, edema, etc.

She tells me Dr. Knox has plans to let her go home tomorrow, so I don't see a reason to keep her unless something changes in the interim.

Ms. Harrison claimed entitlement to worker's compensation. The claimant contended that she sustained an unexplained injury on July 25, 2002. The respondents

contended that the claimant did not sustain a compensable injury. The respondents contended that the claimant's injury resulted from an idiopathic fall.

Dr. Morse corresponded with the respondents' attorney on February 6, 2003:

I have reviewed the medical records which you sent on Courtney Harrison. I had also seen Courtney in the hospital. It is my medical opinion to the best of my ability that she had a vasovagal syncopal event; that is, she blacked out because her blood pressure fell either because her heart slowed down and/or her blood vessels dilated. * "Syncope of this sort may be precipitated by pain, fear, emotional reactions, injury and surgical manipulation. It may occur in association with missed meals, heat or crowds. It usually occurs while subjects are standing. Warning symptoms include weakness, sweating, pallor, nausea, yawning, sighing, hyperventilation, blurred vision, impaired external awareness and dilation of pupils. Lying down or squatting at this time may abort actual loss of consciousness."

There are a variety of other causes of syncope including syncope due to a variety of medical problems with the heart or blood pressure. Occasionally, vigorous coughing or straining or urination can cause syncope. She did none of these. While it is indeed abnormal for a healthy sixteen year old woman with no history of dizziness or fainting spells to fall out, it does occur. I see nothing in the work environment which might have precipitated this spell. I don't believe that Ecstasy or the Depo-Provera were related. As mentioned above, a missed meal could predispose one to a syncopal event.

I suspect that the feeling hot and sweating was actually an early symptom of vasovagal syncope. It is unclear what role the cigarette smoking

played in this. In the process of inhaling, people often hold their breath which is a Valsalva maneuver which can precipitate vasovagal syncope. I am sure that tobacco in and of itself has some role in blood pressure and blood vessels, although I can't further comment on that.

It is most likely the subdural hematoma that was found on the scan was a result of the fall rather than a cause of the fall. Apparently that has resolved and she is back to her normal activities.

To summarize, this patient had an event of vasovagal syncope. She appears to have had some warning in the feeling that she was hot and sweating. It was further exacerbated by not having had breakfast and perhaps the cigarette smoking had some role, especially if she performed the Valsalva maneuver. Given the events you related to me about the climate inside the restaurant, it is very unlikely that any environmental factor played a role in her vasovagal syncope.

My advice to her would be to eat regular meals and if she has a sensation of feeling hot, lightheaded, sweating, that she immediately sit down or lie down until the feeling passes. I did not find that the work place was at fault in any way in this case.

After a hearing before the Commission, the administrative law judge found that the claimant "experienced an unexplained fall resulting in an injury while working for the respondent on July 25, 2002." The respondents appeal to the Full Commission.

II. ADJUDICATION

"Compensable injury" means, among other things, an injury arising out of and in the course of employment. Ark. Code Ann. § 11-9-102(4)(A). The phrase "arising out of the employment" refers to the origin or cause of the accident and the phrase "in the course of the employment" refers to the time, place and circumstances under which the injury occurred. In order for an injury to arise out of the employment, it must be a natural and 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 (Ct. App. 1980). When an employee sustains an "unexplained" injury at work, the injury is compensable. When an employee sustains an "idiopathic" injury at work, the injury is, generally, not compensable, because the injury is personal in nature and does not arise out of and in the course of employment. Crawford v. Single Source Transportation, Workers' Compensation Commission F201868 (Aug. 7, 2003).

In the present matter, the Full Commission reverses the Administrative Law Judge's finding that the claimant sustained a compensable unexplained fall. The preponderance of evidence shows that the claimant sustained an idiopathic

fall. The claimant was working in a fast-food restaurant on July 25, 2002. The record does not indicate that the claimant was working in inordinately hot conditions. The claimant was standing at the counter waiting on a customer, and "just got dizzy and passed out." The claimant had recently had braces put on, and testified that she was eating light but "never got hungry." The claimant did testify that "it was hot" inside Mr. Burger. The claimant's manager and a co-worker testified that it was not unusually hot inside the store. The manager, Mr. Pierce, testified that the restaurant contained two separate air conditioning units. One air conditioning unit controlled the temperature in the dining areas; the other unit cooled the kitchen areas. Mr. Pierce said there was "no doubt" that the kitchen stayed warmer than the other areas, but that the area where the claimant fell was "the coolest part of the kitchen. Out of the kitchen, that would be the coolest part."

At hearing, the claimant could not recall whether or not it was hot. There is no doubt that the claimant injured her head after fainting and falling. The first report from Dr. Knox, however, merely showed that the claimant suffered syncope. Dr. Knox did not attribute this condition to the

claimant's work environment. Dr. Morse wrote that the claimant "felt very hot," but the record shows that this physical condition was idiopathic and not the result of the claimant's work environment. The claimant told Dr. Morse "she just got hot and lightheaded." Dr. Morse told the respondents in February 2003 that the claimant suffered a "vasovagal syncopal event." Dr. Morse stated this condition could occur "with missed meals, heat or crowds." Dr. Morse stated, "I see nothing in the work environment which might have precipitated this spell...I did not find that the work place was at fault in any way in this case."

An idiopathic fall is one whose cause is personal in nature, or peculiar to the individual. ERC Contractor Yard & Sales v. Robertson, 335 Ark. 63, 977 S.W.2d 212 (1998), citing 1 LARSON, WORKERS' COMPENSATION LAW, § 12.11 (1998). Because an idiopathic fall is not related to employment, it is generally not compensable unless conditions related to employment contribute to the risk by placing the employee in a position which increases the dangerous effect of the fall. The record in the instant case does not show that the claimant's conditions of employment contributed to the risk by placing the claimant in a position which increased the dangerous effect of her fall. The preponderance of evidence

instead indicates that the claimant's fainting spell arose from a personal origin, and that she sustained an idiopathic fall on July 25, 2002.

Based on our *de novo* review of the entire record, the Full Commission reverses the decision of the Administrative Law Judge. We find that the claimant sustained a non-compensable idiopathic fall on July 25, 2002. The Full Commission's opinion renders moot the claimant's argument on cross-appeal that her attorney is entitled to a fee. This claim is denied and dismissed.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.