

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F111433

LARHONDA JOHNSON-SCOTT,  
EMPLOYEE

CLAIMANT

PILOT CORPORATION TRAVEL CENTER,  
EMPLOYER

RESPONDENT

CONTINENTAL CASUALTY COMPANY/  
RISKO MANAGEMENT,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED SEPTEMBER 12, 2003

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

Claimant appeared PRO SE.

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

Decision of the Administrative Law Judge: Reversed.

OPINION AND ORDER

The claimant, *pro se*, appeals an Administrative Law Judge's opinion filed February 4, 2003. The Administrative Law Judge found that the claimant failed to prove she sustained a compensable recurrent ganglion cyst. 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 recurrence of her compensable injury, for which she is entitled to temporary total disability compensation and reasonably necessary medical treatment.

I. HISTORY

LaRhonda Johnson-Scott testified that she began working for Pilot Travel Centers, LLC in March 1998. The claimant testified that she sustained an accidental injury on February 26, 2000:

Q. How did the injury occur?

A. I was in Dairy Queen, which is a little restaurant there inside of Pilot and I was cleaning out a freezer, refrigerator. I lifted up, it's oh I don't know exactly how big it is but anyway the freezer, the bottom plate weighed maybe about 30 pounds and I was jerking on it to get it, you know, to move it up so I could lift it up to be cleaned because there was a leakage and at that point my, this rack, the bottom rack I hit my arm, my right arm and my arm fell in between the racks, there are little spaces and my arm fell in between there and hit there on my right wrist.

The claimant was seen by Dr. Cynthia Almond on February 28, 2000:

Date of injury 02/26/00. The patient states that she was putting a rack back into place and pressing down with both hands. Her right hand and arm slipped, and she felt a burning pain in her right forearm and right wrist. She was seen at the emergency room at Baptist Memorial Medical Center on 02/26/00, and x-rays of the right wrist were negative. She was diagnosed with a sprained right wrist and possible ganglion cyst. She is here now for further evaluation and recheck....

This patient has had a previous sprain of her right wrist in the past. Described as a mild strain, and symptoms resolved quickly. She has never had surgery on the wrist. She has no history of ganglion cyst in the past....On examination, there is a 2.0 cm x 1.5 cm minimally fluctuant ganglion cyst over the flexor right wrist, radial aspect....We will use the conservative approach initially with anti-inflammatory, pressure, and decreased use of the

right hand and arm....X-rays from Baptist Memorial Medical Center Emergency Room of right wrist, negative on 02/26/00.

Dr. Almond diagnosed "Traumatic ganglion cyst, right wrist." The respondents' attorney stated at hearing that this injury was accepted as compensable, and the claimant agreed that her medical bills resulting from the injury were paid.

The record indicates that the claimant's ganglion cyst was aspirated on or about March 2, 2000. Dr. Almond referred the claimant to Dr. Marcia L. Hixson, who examined the claimant on March 9, 2000:

She is a twenty-five year old right hand dominant woman who works as a cashier for Pilot. She sustained an injury to her right hand on 2-25-00 while she was lifting a refrigerator rack to clean it. Her right hand slipped and struck part of the refrigerator. Immediately after the injury, she noted a swollen area of the volar aspect of the right wrist. You have seen her and attempted to aspirate what appears to be a ganglion cyst. Ms. Johnson states that she did not have any problems with her wrist before this accident.

Examination shows a 2 x 2 cm mass on the volar aspect of the right wrist....There are no clicks or other signs of wrist instability or ligament injury. The base of the right thumb is somewhat tender with a click present there. Review of the x-rays show they are normal.

I think that Ms. Johnson has a traumatic ganglion cyst. This appears to be coming from the thumb carpometacarpal joint, but could also come from the wrist joint. Since aspiration has been unsuccessful, we would like to schedule her for surgical excision of this cyst. Ms. Johnson will remain working at her regular job without

restrictions until her insurance company has approved the operation.

Dr. Hixson performed an "Excision of ganglion cyst, right wrist" on March 20, 2000. Dr. Hixson indicated that the claimant could return to restricted work on March 22, 2000. The claimant testified that she returned to light duty after her surgery.

Dr. Hixson wrote to Pilot Corporation on July 13, 2000:

She is almost four months following excision of a volar ganglion cyst from her right wrist. The therapy that she is receiving has helped quite a bit. She no longer has much pain and the wrist has increased movement and strength.

Ms. Johnson will complete her therapy treatments. I will reexamine her in three weeks for what may be her final examination. The claimant testified that, after recovering from surgery, "I would feel pain like in the night hours I would wake up with pain there but nothing major, nothing major."

The respondents' attorney stated at hearing that the claimant left her employment with Pilot on November 23, 2000. The claimant testified that she began working as a "cook relief" for Golden Years Manor in July 2001. The claimant and respondent-employer Golden Years Manor stipulated that the claimant sustained a compensable injury to her thumb on August 9, 2001. The claimant testified:

A. I went to the trash dumpster, taking out the trash and I began to pick up this barrel of trash and as I lifted up into the air above my waist my thumb was caught into the handle that you hold the trash with and I felt a pull, my thumb was pulled

back and then I immediately felt a sharp pain from my thumb all the way up to my shoulder blade....

Dr. L.F. Anderson saw the claimant on August 9, 2001:

Ms. Johnson states she was lifting some trash by herself yesterday, felt severe pain in her right wrist over the base of her right thumb. She has a history of ganglion cyst that was repaired by Dr. Marcia Hixson several years ago. She has quite a bit of pain with ROM and cannot make a fist....

Examination of the right hand reveals a ganglion cyst at the base of the right thumb. There is pain over the carpal metacarpal joint. She has normal neurovascular exam.

Dr. Anderson assessed "Sprain to the right thumb with ganglion cyst." The claimant was prescribed medication and given a splint with thumb spica. On August 14, 2001, Dr. Anderson assessed "1) Resolving sprain to the right thumb. 2) Ganglion to the right wrist." Dr. Anderson continued the claimant in her splint and referred the claimant to Dr. Joe W. Crow for an orthopedic consultation. It was stipulated that Golden Years paid for Dr. Anderson's treatment on August 9, 2001 and August 14, 2001.

Dr. Crow noted on August 15, 2001, "She had a volar radial cyst excised last year by Dr. Hixson. She jerked her hand and re-injured herself and now has a recurrence of that cyst." Dr. Crow advised the claimant "that we would get her back to her operating surgeon for excision of the recurrent cyst."

The claimant returned to Dr. Hixson on August 23, 2001. Dr. Hixson's examination showed an enlarging mass at the claimant's volar right wrist beneath the surgical excision. Dr. Hixson assessed, "Recurrent volar ganglion cyst R wrist" and planned surgery for August 28, 2001. Dr. Hixson took the claimant off work. Dr. Hixson performed an "Excision of recurrent cyst volar right wrist" on August 31, 2001. Dr. Hixson noted:

The previous scar from the incision was excised and the skin flaps were elevated. The cyst was quite large and multilobated. This was traced distally to what appeared to be an origin on one of the thenar muscles and all abnormal tissues were excised. At this point, the wrist and thumb were taken through a range of motion. There was no snapping sensation of the wrist. A small arthrotomy was made and no excessive fluid or synovitis was seen. Likewise, the CMC of the joint was excised with a very small incision. The joint itself did not have any excessive fluid or synovitis....

The claimant stated at hearing that Medicaid had paid for Dr. Hixson's August 2001 surgery, except for a balance of approximately \$500.

On September 13, 2001, Dr. Hixson indicated that the claimant could return to restricted work, no use of right hand, on September 14, 2001. The claimant also informed Dr. Hixson on September 13, 2001 that worker's compensation had been denied. The claimant complained of pain during a September 27, 2001 follow-up examination. Dr. Hixson therefore planned an arthrogram of the right wrist in order

to rule out a ligament tear (The record does not clearly show the results of any subsequent arthrogram findings.) Dr. Hixson indicated that the claimant was not working. Dr. Hixson indicated on October 4, 2001 that the claimant was unable to use her right hand, and that the claimant should not return to work until October 22, 2001. The claimant testified that she left her employment with Golden Years in May 2002.

A Commission pre-hearing conference was held on May 30, 2002, in LaRhonda Y. Johnson v. Golden Years Manor, Claim No. F111204. At the pre-hearing conference, Golden Years Manor denied responsibility for the ganglion cyst on the claimant's right wrist. The parties agreed to litigate the following issues:

- (1) Whether treatment for the ganglion cyst on the claimant's right wrist was reasonably necessary in connection with the August 9, 2001 injury; and
- (2) Whether the claimant was entitled to temporary total disability compensation from August 9, 2001 to October 25, 2001.

An Administrative Law Judge (ALJ) filed an opinion on August 6, 2002. The ALJ found that the claimant failed to prove that she sustained a compensable injury "in the form of a ganglion cyst, or any aggravation of a pre-existing condition, on August 9, 2001[.]" The ALJ found that the claimant failed to prove that surgical removal of the ganglion cyst was reasonably necessary in connection with

the August 9, 2001 injury to the claimant's right thumb. The claimant did not appeal the administrative law judge's opinion in Johnson v. Golden Years Manor, Claim No. F111204.

The claimant signed a Form AR-C, Claim For Compensation, on August 11, 2002. The claimant described the cause of injury as "Right wrist, taken trash out at Golden Year Manor on August 9, 2001 sprain thumb come to find out had recurrence of injury from injury back in Feb 2000 when I worked for Pilot Corp - (Subway)."

A pre-hearing order was filed on November 25, 2002 in the instant matter, LaRhonda Johnson-Scott v. Pilot Corp. Travel Center, Claim No. F111433. According to a pre-hearing questionnaire, the claimant contended that she had sustained a first accident in February 2000 and a second accident on August 8, 2001. The claimant contended that all of the treating physicians had been paid, except that a balance remained to Dr. Hixson. The claimant contended that she had not received compensation for the August 8, 2001 accident. The pre-hearing order indicated that the Commission would adjudicate the claimant's entitlement to temporary total disability compensation and reasonably necessary medical treatment.

Another hearing was held before the Commission on December 18, 2002. The ALJ examined the claimant:

Q. Do you personally attribute the problems with your wrist in August of 2001 to the incident that occurred on February 26 of 2000?

A. I'm sorry, I don't understand.

Q. I said, do you attribute the injury to your wrist to the accident that occurred on February 26 of 2000?

A. I don't know what that means so I'm having -

Q. Well, do you feel that the problem that you had with your wrist in August of 2001 was related to the injury out there at Pilot?

A. Yes, because my injury reoccurred.

The claimant testified that she had returned to work for another employer.

The ALJ found, among other things, "The claimant has failed to sustain her burden of proof by a preponderance of the evidence that the recurrent ganglion cyst diagnosed on August 9, 2001, arose out of and in the course of her employment with respondent." The ALJ therefore denied and dismissed the claim. The claimant, *pro se*, appeals to the Full Commission.

## II. ADJUDICATION

### A. Compensability

An aggravation is a new injury resulting from an independent incident. Farmland Ins. Co. v. Dubois, 54 Ark. App. 141, 923 S.W.2d 883 (1996). An aggravation, being a new injury with an independent cause, must meet the requirements for a compensable injury. Ford v. Chemipulp

Process, Inc., 63 Ark. App. 260, 977 S.W.2d 5 (1998). A recurrence is not a new injury but merely another period of incapacitation resulting from a previous injury. Atkins Nursing Home v. Gray, 54 Ark. App. 125, 923 S.W.2d 897 (1996). A recurrence exists when the second complication is a natural and probable consequence of a prior injury. Weldon v. Pierce Bros. Constr., 54 Ark. App. 344, 925 S.W.2d 179 (1996).

In the present matter, the Full Commission reverses the Administrative Law Judge's decision. The claimant, who the ALJ found was a credible witness, injured her right wrist while cleaning a freezer rack for Pilot Travel Center in February 2000. Pilot accepted the incident as compensable. Dr. Almond treated the claimant for the injury and diagnosed "traumatic ganglion cyst, right wrist." Dr. Hixson diagnosed "traumatic ganglion cyst" in March 2000. Dr. Hixson performed an "Excision of ganglion cyst, right wrist." The claimant eventually returned to light duty for Pilot. The claimant testified that she felt occasional pain in her wrist afterward, but "nothing major." The claimant terminated her employment with Pilot in November 2000.

The claimant went to work for Golden Years Manor in July 2001. While lifting a barrel of trash on August 9, 2001, "I felt a pull, my thumb was pulled back and then I immediately felt a sharp pain from my thumb all the way up

to my shoulder blade." Respondent Golden Years paid for treatment from Dr. Anderson after this incident. Dr. Anderson noted, "Examination of the right hand reveals a ganglion cyst at the base of the right thumb." Dr. Anderson treated the claimant's right thumb sprain and referred her to an orthopedist to look at the cyst. Dr. Crow subsequently noted "a recurrence of that cyst" and advised the claimant to return to Dr. Hixson. Dr. Hixson credibly diagnosed "Recurrent volar ganglion cyst R wrist." Dr. Hixson re-operated at the same surgical site where she had previously performed surgery, and indicated a "quite large and multilocated" cyst. Dr. Hixson returned the claimant to restricted work on October 22, 2001.

The Full Commission reverses the ALJ's finding that the claimant failed to prove her recurrent ganglion cyst arose out of her employment with the respondents. The record shows that the claimant sustained a traumatic ganglion cyst in February 2000 while working for the respondent-employer Pilot Travel Centers. The claimant injured her thumb in August 2001 while working for Golden Years. Respondent Golden Years provided medical treatment in connection with the claimant's injury to her right thumb. An Administrative Law Judge found in a separate claim that the claimant failed to prove a compensable injury "in the form of a ganglion cyst, or any aggravation of a pre-existing condition, on

August 9, 2001." The ALJ did not enter a finding with regard to recurrence.

In the present claim, the Administrative Law Judge cited the Act 796 statutory elements with regard to proving an accidental injury caused by a specific incident. The ALJ then found that the claimant's recurrent cyst did not "arise out of her employment" with Pilot. But the claimant does not contend that she sustained an accidental injury as defined by Ark. Code Ann. §11-9-102(4)(A)(i) and following. Rather, the claimant contends that she sustained a recurrence of the compensable injury she sustained in February 2000. The preponderance of evidence demonstrates that the claimant sustained a recurrent ganglion cyst after she injured her thumb in August 2001. All of the medical records show that the claimant's complication in August 2001, leading to the need for additional surgery, was a natural and probable consequence of the claimant's February 2000 incident while employed with Pilot Travel Centers. There are no medical opinions to the contrary, nor is there any other probative evidence before the Commission indicating that the claimant did not sustain a compensable recurrence. The Full Commission therefore reverses the Administrative Law Judge's decision. We find that the claimant sustained a compensable recurrence which is the responsibility of the respondent, Pilot Corporation.

B. Temporary disability

The claimant sustained a compensable injury to her right wrist on February 28, 2000. This scheduled injury resulted in a ganglion cyst. The claimant sustained a compensable recurrence of her scheduled injury after an incident occurring in August 2001. Incapacity to earn wages is presumed with a scheduled injury. Minnesota Mining & Manufacturing v. Baker, 337 Ark. 94, 989 S.W.2d 151 (1999). Dr. Hixson took the claimant off work beginning August 28, 2001 before excising the claimant's recurrent cyst on August 31, 2001. Dr. Hixson thereafter indicated that the claimant could return to work on October 22, 2001.

An employee with a scheduled injury is entitled to temporary total disability compensation during the time that she remains within her healing period and has not returned to work. Wheeler Construction Co. v. Armstrong, 73 Ark. App. 146, 41 S.W.3d 822 (2001). In the present matter, we find that the claimant proved she was entitled to temporary total disability compensation from August 28, 2001 when Dr. Hixson took the claimant off work, until October 22, 2001, the date Dr. Hixson indicated that the claimant was able to return to work. We find that the claimant's healing period ended no later than October 22, 2001. Temporary disability cannot be awarded after the healing period has ended.

Trader v. Single Source Transportation, Workers'  
Compensation Commission E507484 (Feb. 12, 1999).

Based on our *de novo* review of the entire record, the Full Commission reverses the opinion of the Administrative Law Judge. We find that the claimant proved that the recurrent ganglion cyst diagnosed in August 2001 was a recurrence of the claimant's February 2000 compensable injury. The respondent Pilot Travel Centers is liable for reasonably necessary medical treatment provided in connection with the compensable recurrence, including all of the treatment provided by Dr. Hixson in August 2001 and following. The claimant proved that she was entitled to temporary total disability compensation from August 28, 2001 through October 22, 2001.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002).

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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SHELBY W. TURNER, Commissioner

Commissioner Yates dissents.