

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F102488

LORA RUMINER,
EMPLOYEE

CLAIMANT

SPARKS REGIONAL MEDICAL CENTER,
EMPLOYER

RESPONDENT

MANAGEMENT CLAIM SOLUTIONS, INC.,
INSURANCE CARRIER

RESPONDENT

OPINION FILED OCTOBER 27, 2003

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

Claimant represented by HONORABLE RANDOLPH SHOCK, Attorney
at Law, Fort Smith, Arkansas.

Respondents represented by HONORABLE R. SCOTT ZUERKER,
Attorney at Law, Fort Smith, Arkansas.

Decision of the Administrative Law Judge: Affirmed.

OPINION AND ORDER

The claimant appeals an Administrative Law Judge's
opinion filed February 7, 2003. The Administrative Law
Judge found, "The claimant has failed to prove by a
preponderance of the evidence that she has a Morton's
neuroma resulting from her compensable injury. Arkansas law
requires that there be objective medical evidence to
establish a compensable injury and no such objective medical
evidence is available in this case to indicate that the
claimant has a Morton's neuroma. Therefore, the respondent
shall not be responsible for any medical treatment for the

removal of or the treatment of a suspected Morton's neuroma on the claimant's right foot." After reviewing the entire record *de novo*, the Full Commission affirms the opinion of the Administrative Law Judge.

I. HISTORY

The parties stipulated that Lora Ruminer sustained a compensable injury to her left knee on February 26, 2001. Ms. Ruminer testified that she became entangled in a phone cord and fell. "The left knee hit first and I wound up on my hands and knees," she testified. The claimant began treating with Dr. Steven O. Smith, whose impression on March 1, 2001 was "left knee contusion" and "questionable medial meniscus tear, left knee." Dr. Smith wrote, "At this time she could work on a seated job."

After diagnosing "Questionable medial meniscus tear, left knee, with chondromalacia of patella," Dr. Smith performed a "Left knee arthroscopy with chondroplasty of patella and chondroplasty of trochlea" on May 8, 2001. Dr. Smith's postoperative diagnosis was "Chondromalacia of patella and chondromalacia of trochlea." Dr. Smith noted on May 16, 2001 that the claimant's knee looked okay, and he hoped to return the claimant to regular duty in three weeks. However, the claimant testified that she began "favoring"

her left knee, thus placing more weight on her right leg and foot. Dr. Smith noted on June 6, 2001:

Lora is seen today for follow-up of her knee arthroscopy. She is still having some pain and clicking. I discussed with her about the patellofemoral arthritis that she has. She also has complaints of right forefoot pain. She has been putting a lot of stress on this side.

We did x-ray her foot today. They showed no abnormalities. She seems to have some evidence of some interdigital neuritis, although early stress fracture certainly could be going on.

We will see her back in a month. If her foot is still painful, we need three views of the foot prior to being seen.

An x-ray of the claimant's right foot taken July 6, 2001 showed "a questionable area seen in the fourth metatarsal neck when compared to previous films[.]" Dr. Smith therefore arranged an MRI of the right forefoot, taken July 11, 2001:

Evaluation of the images reveal there is abnormal T1, T2 and STIR signal at the base of the third metatarsal bone and in the shaft. This may extend to the proximal articular surface, no definite displaced fragments detected. Soft tissues are otherwise unremarkable aside from some edema seen in the soft tissues around the fracture site.

IMPRESSION:

1. Abnormal signal base of the third metatarsal bone consistent with a stress fracture. No displaced fragments or other worrisome findings noted.

Dr. Smith noted on July 25, 2001:

Lora is seen back today in follow-up of MRI of the foot. This indeed showed a stress fracture. We are going to place her into a 3-D boot....

Dr. Smith saw the claimant on August 16, 2001 "in follow-up of her third metatarsal stress fracture. She is really no better in the boot" Dr. Smith reported from an x-ray taken August 16, 2001, "No evidence of healing fracture is noted. Essentially a normal radiographic series." Dr. Smith noted on August 30, 2001:

Lora is seen back today for follow up of her knee scope and metatarsal stress fracture and toe pain. Really today it seems that her toes are about 25% better. She still has pain exquisitely between the fourth and fifth web space, not painful so much at the base of the third metatarsal where the MRI showed a stress fracture. I think this today has more of the appearance of a interdigital neuritis rather than a stress fracture.

We are going to continue to observe this at this point and see her back in three to four weeks. If she is not significantly better at that time, we will give consideration to excision of the neuroma.

Finally, Dr. Smith reported on October 1, 2001:

Lora is seen back today for follow up of her right foot. She still has exquisite tenderness between the fourth and fifth toes and the web space there. This acts exactly like a Morton's neuroma.

I discussed with Lora today her options. We had previously injected this. We have been resting her now for about three months. She really has not shown significant improvement.

We are recommending at this point that we will go ahead and do an exploration of her fourth web space and the removal of her Morton's neuroma. I discussed with her about postoperative numbness in this web space. I think she understands and desires to proceed.

I believe that Ms. Ruminer has reached maximum medical improvement of her knee. She had significant chondromalacia of her patella and trochlea. She will be left with some permanent impairment regarding this knee. In accordance with the AMA Guides To Evaluation of Permanent Impairment, Fourth Edition, table 62, chapter 3, page 83, I believe Ms. Ruminer has approximately 1 mm of articular cartilage left in her patellofemoral joint. This corresponds to 15% lower extremity impairment. I again believe she has reached maximum medical improvement regarding her knee.

Dr. Smith also wrote to the respondent-carrier on October 1, 2001:

Previously the patient had a stress fracture, which certainly could be attributed to her limping, not wanting to bear weight on the left side, developing a stress fracture on the right. However, her area where she has had the stress fracture, the pain is significantly improved. In the interim it appears the patient has developed a neuroma in the 4th web space; I injected this in the middle of August. She reports about 25% improvement after the injection. Today Ms. Ruminer continues to have signs and symptoms of a neuroma. It is difficult to ascertain if this is work related or not. However, according to Ms. Ruminer's description, she did not have pain such as this prior to her undergoing the injury to her knee and subsequent knee surgery. This was not an injury that was incurred on the job. However, certainly her symptoms have resulted, I believe, as a result of her limping. It is difficult to

make a clear determination or not as to whether this is Workmen's Compensation.

The parties stipulated that the respondents accepted and paid a 15% rating for the claimant's left knee.

The parties stipulated that "Medical expenses for left knee and right foot fracture have been paid." The claimant testified that she had not undergone surgery from Dr. Smith.

The claimant presented to Dr. Gary Griffin, an osteopathic physician, on June 11, 2002:

Patient is a WF with chief complaint of right foot pain over the past three to four days. Patient with a history of stress fractures. Denies any injury or trauma....

Extremities: No edema or swelling noted. Patient was tender to palpation over the left fifth metacarpal....X-ray showed no fractures or deformities.

ASSESSMENT: 1) LEFT FOOT PAIN.

Dr. Griffin prescribed medication for the claimant.

On July 24, 2002, Dr. Smith followed up on correspondence from the claimant's attorney, stating, "Regarding Ms. Ruminer's right forefoot pain. I do feel that this is likely secondary to her altered gait and causing increased pressure upon her right foot."

Ms. Ruminer claimed entitlement to additional worker's compensation. The claimant contended that "as a compensable consequence of the left knee injury the claimant suffered

injury to and is in need of treatment for her right foot." The claimant contended that she was entitled to additional medical treatment and additional temporary total disability compensation. The respondents contended that "the claimant was released from treatment as it relates to her left knee on October 1, 2001, and that any medical care subsequent to that date is unrelated to the compensable injury she sustained on February 26, 2001."

After a hearing before the Commission, the Administrative Law Judge found, "The claimant has failed to prove by a preponderance of the evidence that she has a Morton's neuroma resulting from her compensable injury." The Administrative Law Judge also found that the claimant failed to prove she was entitled to temporary total disability from October 1, 2001 and following. The Administrative Law Judge therefore denied and dismissed the claim; claimant appeals to the Full Commission.

II. ADJUDICATION

Causal connection is generally a matter of inference, and possibilities may play a proper and important role in establishing that relationship. Osmose Wood Preserving v. Jones, 40 Ark. App. 190, 843 S.W.2d 875 (1992). The determination of whether a causal connection exists is a

question of fact for the Commission to determine. Jeter v. B.R. McGinty Mechanical, 62 Ark. App. 53, 968 S.W.2d 645 (1998). 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).

In the present matter, the Full Commission affirms the Administrative Law Judge's finding that the claimant failed to prove she sustained a "Morton's neuroma" as a result of her compensable injury. The respondents paid benefits for the claimant's compensable left knee injury occurring in February 2001, and they paid benefits for the claimant's subsequent right foot fracture. The latter injury resulted from the claimant's "altered gait" following her left knee injury. Eventually, Dr. Smith recommended surgery for excision of a "Morton's neuroma." Dorland's Illustrated Medical Dictionary, 28th Ed., defines "neuroma" as "a tumor growing from a nerve or made up largely of nerve cells and nerve fibers." There was no objective evidence in the record of a "tumor" in the claimant's right foot. "Morton's neuroma" is defined as "the neuroma that results from

Morton's neuralgia." This is in turn defined as "transverse pressure across the heads of the metatarsals." See Table of Tests in Dorland's, p. 1680.

The Administrative Law Judge found that the claimant failed to establish a "Morton's neuroma" in her right foot with objective medical findings. The Full Commission affirms the Administrative Law Judge. The record indicates that there may have been a fracture in the claimant's right foot, for which the respondents paid benefits, but the medical evidence shows that this condition eventually resolved. Dr. Smith did not describe an "objective basis" for the claimant's diagnosed neuroma. The claimant expressly contended that her "neuroma" was a "compensable consequence" of the left knee injury and resulting right foot fracture. The respondents cite Atchison v. Marino Constr. Co., Workers' Compensation Commission E616344 (Sept. 19, 2001), and correctly point out that a compensable consequence must be shown by objective medical findings.

Further, with regard to the "neuroma" in the claimant's right foot, Dr. Smith opined in October 2001 that he could not ascertain whether or not this condition was causally related to the claimant's compensable injury. Medical opinions addressing compensability must be stated within a

reasonable degree of medical certainty. Ark. Code Ann. § 11-9-102(16)(B). Where a medical opinion is sufficiently clear to remove any reason for the trier of fact to have to guess at the cause of the injury, that opinion is stated within a reasonable degree of medical certainty. Huffy Service First v. Ledbetter, 76 Ark. App. 533, 69 S.W.3d 449 (2002), citing Howell v. Scroll Tech., 343 Ark. 297, 35 S.W.3d 800 (2001). Dr. Smith's causation opinion in the present matter was not stated within a reasonable degree of medical certainty. We also note that by the time the claimant was examined by Dr. Griffin in June 2002, there were no objective medical findings establishing an injury to the claimant's right foot.

Based on our *de novo* review of the entire record, the Full Commission affirms the Administrative Law Judge's finding that the claimant failed to prove she sustained a Morton's neuroma as a compensable consequence of her compensable injury. The preponderance of evidence shows that the claimant reached the end of her healing period for the compensable left knee injury no later than October 1, 2001. We therefore affirm the Administrative Law Judge's finding that the claimant failed to prove she was entitled

to additional temporary total disability compensation after October 1, 2001. This claim is denied and dismissed.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

_____ I must respectfully dissent from the opinion of the majority finding that claimant is not entitled to any additional benefits for problems she is experiencing with her right foot.

On February 26, 2001, claimant sustained an admittedly compensable injury to her left knee when she fell at work. Thereafter, as a result of her altered gait and weight bearing, claimant developed pain in her right foot. Dr. Stephen O. Smith, an orthopedic surgeon, has been claimant's primary treating physician. Respondent accepted as compensable the early diagnosis of a stress fracture of the right foot. However, respondent controverted claimant's entitlement to additional benefits when Dr. Smith

recommended exploratory surgery and removal of a possible Morton's neuroma.

The Administrative Law Judge, and now the majority, have erroneously viewed the two possible diagnoses of claimant's condition as separate and distinct conditions, i.e., a stress fracture and/or interdigital neuritis. Even if claimant is suffering from two separate problems in her right foot, the greater weight of the evidence indicates that these problems are all causally related to, and thus compensable consequences of, the work-related knee injury.

Dr. Smith is not at all certain as to the exact diagnosis of claimant's condition. However, I point out that a definite medical diagnosis has never been required in workers' compensation claims. In appropriate circumstances, benefits can be awarded when the medical evidence concerning a diagnosis is "inconclusive, indecisive, fragmentary, or even nonexistent." American Can Co. v. McConnell, 266 Ark. 741, 587 S.W.2d 583 (1979); Watson v. Conway Memorial Hospital, 268 Ark. 680, 595 S.W.2d 946 (Ark. App. 1980).

In an office note dated June 6, 2001, Dr. Smith documented complaints of right forefoot pain and stated that claimant "seems to have some evidence of some interdigital neuritis, although early stress fracture certainly could be

going on." X-rays taken on this visit revealed "no evidence of acute fracture or dislocation." In an office note dated July 6, 2001, Dr. Smith opined that claimant's foot problems are "probably related to her knee as she has been limping quite a bit and may have developed a stress fracture or an interdigital neuritis of the right forefoot." Thereafter, an MRI scan was interpreted as showing an "Abnormal signal base of the third metatarsal bone consistent with a stress fracture." However, repeat x-rays continued to be normal with "No evidence of healing fracture." As of an office visit on August 30, 2001, Dr. Smith was still uncertain as to the exact diagnosis of claimant's foot problems.

She still has pain exquisitely between the fourth and fifth web space, not painful so much at the base of the third metatarsal where the MRI showed a stress fracture. I think this today has more of the appearance of a [sic] interdigital neuritis rather than a stress fracture.

Dr. Smith finally recommended exploratory surgery in an effort to accurately diagnose claimant's condition and relieve her symptoms. Claimant has not had this surgery because respondent controverted her entitlement to additional benefits.

In my opinion, the majority has ignored the only medical opinion on causation contained in the record. Dr. Smith has repeatedly opined that claimant's right forefoot pain (not a stress fracture and/or a neuroma) is "likely secondary to her altered gait and causing increased pressure upon her right foot." Additionally, there is absolutely no reasonable nonwork-related explanation for claimant's problems.

Moreover, contrary to the opinion of the majority, I know of no requirement that the objective findings must support a particular diagnosis. In my opinion, objective findings must do no more than support or establish an underlying compensable abnormality.

Finally, I disagree with the interpretation of Dr. Griffin's June 11, 2002 office note as somehow indicating that "claimant's pain complaints had shifted to her left foot." Granted, toward the end of the typed transcription, the note references the left fifth metacarpal and left foot pain. However, this note alludes to complaints of right foot pain only. More importantly, the handwritten portion of the note documents "c/o: pain to outer part of (R) foot. Xray (R) foot...Rt foot pain." Additionally, the x-ray report, dated June 11, 2002, indicates that the right foot

(not the left) was examined. Thus, the references to claimant's left foot were simple transcription errors.

Claimant has easily met her burden of proving by a preponderance of the evidence that her right foot problems are compensable consequences of her work-related knee injury. Accordingly, the opinion of the Administrative Law Judge should be reversed.

SHELBY W. TURNER, Commissioner