

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F307153

HAZEL PARKER,
EMPLOYEE

CLAIMANT

GEORGIA-PACIFIC CORPORATION,
SELF-INSURED EMPLOYER

RESPONDENT

SEDGWICK CLAIMANT MANAGEMENT
SERVICES (TPA),
INSURANCE CARRIER

RESPONDENT

OPINION FILED MARCH 16, 2005

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

Claimant represented by HONORABLE BILLY J. HUBBELL, Attorney
at Law, Crossett, Arkansas.

Respondents represented by HONORABLE J. MATTHEW MAULDIN,
Attorney at Law, Little Rock, Arkansas.

Decision of the Administrative Law Judge: Affirmed and
adopted.

OPINION AND ORDER

The claimant appeals and respondent cross-appeals from
a decision of the Administrative Law Judge filed March 22,
2004. The Administrative Law Judge entered the following
findings of fact and conclusions of law:

1. The claimant does not meet her burden of
showing by a preponderance of the evidence
that her bilateral carpal tunnel syndrome is
work related. Specifically, the claimant
does not show that her claimed gradual
injury, which ultimately manifested itself as
carpal tunnel syndrome, is the "major cause"

of her current disability or need for treatment.

2. The claimant does not meet her burden of demonstrating by a preponderance of the evidence that her claim for benefits because of a diagnosis of fibromyalgia is causally connected to any work activity she was performing for respondent in 2002.
3. The statute of limitations has not run on this claim.

We have carefully conducted a de novo review of the entire record herein, and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct, and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

The Majority has affirmed and adopted an Administrative Law Judge's decision denying the claimant benefits. For the reasons below, I respectfully dissent.

The Administrative Law Judge initially found that the claimant's job activities "significantly contributed" to the development of her carpal tunnel syndrome. But, he then denied her claim for benefits based upon her carpal tunnel syndrome.

The reasons the Administrative Law Judge gave for denying this claim was his conclusion that he could not, without "medical assistance" determine that the claimant's carpal tunnel syndrome was the major cause of her current disability and need for treatment. However, it is well established that medical opinions as to causation are not necessary to establish a compensable injury. Wal-Mart Stores, Inc. v. Van Wagner, 337 Ark. 443, 990 S. W. 2nd 522 (1999). In adopting this conclusion, the Majority is compounding the Law Judge's error and is likewise applying an incorrect standard.

The Administrative Law Judge also notes that because the claimant was later diagnosed with Lupus, and was also

pursuing a claim based upon fibromyalgia, he was unable to discern whether the claimant's carpal tunnel syndrome was the major cause of her need for treatment. However, the Administrative Law Judge's apparent conclusion that the claimant's other health problems could have played any role in her need for carpal tunnel release, is unfounded.

Lupus is a chronic disease which causes skin lesions, rashes, and connective tissue disease. None of those symptoms are in any way similar to the pain, tingling, and numbness associated with carpal tunnel syndrome. Nor, would those symptoms be relieved by performing carpal tunnel release surgery. In the present case, the claimant testified that her carpal tunnel syndrome symptoms substantially abated after the release surgery. Further, the presence of her carpal tunnel syndrome was objectively verified by electro diagnostic testing. Of even more significance is that the claimant was not diagnosed as having Lupus until June 2003, approximately one year after her second carpal tunnel surgery (See the medical report of Dr. Ronald Ellis, dated June 30, 2003). I simply cannot understand how it can be concluded that some cause other than carpal tunnel syndrome would have required the claimant to undergo carpal tunnel release surgery. While she may have been afflicted with other physical maladies, none of them were similar to carpal tunnel syndrome and none of

them would be relieved by carpal tunnel release surgery. The conclusion that either Lupus or fibromyalgia could have been the major cause for the claimant's need for carpal tunnel surgery is unfounded.

I likewise dissent from the Majority's finding that the claimant's fibromyalgia was not job related. I believe that there is sufficient evidence to reach a contrary result.

For the reasons set out above, I respectfully dissent.

SHELBY W. TURNER, Commissioner