

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F108608

JIMMY T. KNIGHT,
EMPLOYEE

CLAIMANT

CEDAR CHEMICAL CORPORATION,
EMPLOYER

RESPONDENT NO. 1

ZURICH AMERICAN INSURANCE
CO., CRAWFORD & CO.,
INSURANCE CARRIER, TPA

RESPONDENT NO. 1

DEATH AND PERMANENT TOTAL
DISABILITY TRUST FUND

RESPONDENT NO. 2

OPINION FILED MARCH 14, 2006

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

Claimant represented by the HONORABLE CHARLES P. ALLEN,
Attorney at Law, West Helena, Arkansas.

Respondents No. 1 represented by the HONORABLE LAWRENCE W.
WHITE, Attorney at Law, Memphis, Tennessee.

Respondent No. 2 waived appearance at the hearing before the
administrative law judge.

Decision of the administrative law judge: Reversed.

OPINION AND ORDER

The claimant appeals from an administrative law judge's
opinion filed April 7, 2005. The administrative law judge
found, among other things, "Claimant has failed to prove by a
preponderance of the evidence that he sustained a

compensable injury arising out of the course and scope of his employment on July 1, 2001." After reviewing the entire record *de novo*, the Full Commission reverses the opinion of the administrative law judge. We find that the claimant proved that he sustained a compensable injury to his left knee which arose out of and in the course and scope of his employment on July 1, 2001.

I. History

The claimant, age 57 (9/21/48), had worked for the respondent since some time in 1996. The claimant worked as a lead operator in Unit Six wherein he was required to perform various job duties involving the formulating and manufacturing of certain chemical products. His job duties included washing chemicals, charging reactors, cleaning, packing out, loading sea containers, loading trucks, unloading trucks, and unloading rail cars. Throughout his workday, the claimant was frequently required to walk up and down three flights of stairs. The claimant alleges that he sustained a compensable injury on July 1, 2001 while working for the respondent. According to the claimant, he injured his left knee while climbing "a bunch" of stairs on the morning of July 1, 2001. The claimant maintains that he experienced significant pain in his left knee after he sat

down for lunch and attempted to get up, and he had great difficulty walking thereafter.

X-rays were taken of the claimant's left knee on July 2, 2001, with the following opinion:

Features consistent with gout and/or osteoarthritis with evidence for calcification ligamentous structures with other features as described which may or may not be related to trauma. History is pain. Bone scanning might be considered if occult fracture or osteomyelitis is a possibility or if symptoms persist.

An MRI of the left knee was taken on July 3, 2001, with the following impression:

Probable complete disruption of the anterior cruciate ligament. Probable tear and maceration of the posterior horn of the medial meniscus.

Dr. John Wilson wrote on July 5, 2001, "The MRI revealed a posterior horn tear of the medial meniscus as well as an anterior cruciate tear. Mr. Knight needs an arthroscopy. He is scheduled for this."

On August 1, 2001, the claimant underwent follow-up care with Dr. Frederick Azar of his left knee. He wrote, in pertinent part:

We discussed treatment options with him. I explained that the results of arthroscopy in an arthritic knee are unpredictable. He did have an acute injury recently and I believe this has wakened his arthritis.....

The claimant underwent left knee arthroscopy with Dr. Herbert Hahn on October 17, 2001. There were no complications and the claimant was taken to the recovery room in satisfactory condition.

According to medical notes dated April 9, 2002, after his surgery, the claimant developed a postoperative sepsis of the left knee with staph aureus, which was treated with two surgical debridements and admission into the hospital from October 25, 2001 until November 19, 2001. Since this time, the infection in the claimant's knee has resolved.

In a letter dated October 16, 2002, Dr. Hahn wrote the following to the claimant's attorney:

In response to your inquiry dated September 12, 2002, I have reviewed the entire file. The acute injury of the torn medial meniscus that prompted Mr. Knight's surgery on 10-17-01 represents more than 50% of his current problem. It was also this surgery that precipitated the joint infection which is a great part of his current impairment. He will continue to require frequent visits to an orthopedist until such time as he undergoes total knee replacement surgery, and then he will continue management after that, all related to recent injury.

The claimant's deposition was taken on March 2, 2002. According to the claimant, he underwent surgery to his knee on a Wednesday with Dr. Hahn. The claimant testified that after his surgery, he initially did fine and did not have to

take any pain medication, as he was able to attend a family outing that weekend at a local deer camp. According to the claimant, he began experiencing problems with his knee early Sunday morning, as he awakened in a puddle of puss and was unable to get out of his camper without assistance. The claimant testified that he saw Dr. Hahn on Monday, who later advised that he had suffered a staph infection. As of the date of his deposition, the claimant testified that he was infection free and had gone through physical therapy treatment.

According to the claimant, he had a prior knee injury in the mid-70s wherein he tore the inside of his ligaments. He further testified that the ligaments he damaged in the work injury is not something that he had problems with in 1974 or '75.

The claimant testified that his job with the respondent required that he climb steps quite a bit. The claimant testified that his accident occurred on July 1, 2001. According to the claimant, he was working with Sylvester King on the day of the incident. The claimant testified that he injured his knee around 11:00 a.m. that day.

According to the claimant, as the day progressed on, his symptoms progressed and he got to where he could not

walk or put any weight on his knee. The claimant testified that after his lunch break, he advised his supervisor, Johnny Vincent, that he had hurt his knee and needed to go home because it was hurting. According to the claimant, Mr. Vincent asked him to wait until his shift was over since he was the only worker there. The claimant completed his shift, but he continued in pain. Although the claimant denied having previously worn a brace on his left knee, he admitted to having worn a neoprene sleeve on his right knee due to stiffness and it hurting as a result of him going up and down the steps.

According to the claimant, when he returned to work the next day, he told his supervisor, James Griffin, that he had injured his leg. The claimant testified that he worked light duty until August 12, 2001. At that time, the claimant was advised by the respondent that his claim had been denied. As a result, the respondent did not have any part-time or light-duty work available for the claimant.

The claimant essentially testified that approximately a month-and-a-half prior to the July 1, 2001 incident, his leg hyperextended and popped as he was going up the steps. The claimant admitted that his health insurance provider, AMCO, has paid for most of his medical bills.

A hearing was held in this matter on January 7, 2005. At the hearing, the claimant gave testimony. The claimant testified that he is not currently employed. His sources of income are long term disability benefits and Social Security benefits totaling approximately \$1,174.00 per month. According to the claimant, approximately 25 to 30 years ago, he injured his knee playing softball when a fellow clipped his legs out from under him and tore the ligaments on the inside part of his knee. The claimant testified that he underwent surgery wherein they pulled the ligaments back and re-attached them to the bone.

The claimant testified that on May 1, 2001, his knee hyperextended and popped. According to the claimant, pain shot down through his back. Afterwards, the claimant did not experience any other pain, and he continued working. According to the claimant, he did not experience any further problems with his knee until July 1, 2001. The claimant also denies having missed any work during this time period other than for vacation or pleasure. The claimant testified that on July 1, 2001, he noticed he was hurting some time around 11:00 a.m. In addition, the claimant basically corroborated his previous testimony concerning the incident.

On cross-examination, the claimant specifically testified that he does not know exactly when his knee injury occurred, and he was not sure if he hyperextended it or twisted it, nor did it pop, as it just started hurting.

The claimant testified that after his knee surgery, he developed a staph infection in his knee that resulted in him being hospitalized for quite some time. The claimant testified that although he has recovered from that particular episode, his doctor has not released him to go back to work.

Upon being questioned by the Commission the claimant testified:

Q. At the time that you said you noticed the pain at around 11:00 o'clock that day, what were you doing right when you first noticed the pain? were you walking up the stairs, were you-

A. I was coming down.

The claimant's wife, Shirley Knight, also gave testimony during the hearing. According to Mrs. Knight, as of the date of the hearing, she and the claimant have been married some 37 years. She testified that the claimant was unable to get out of his truck without assistance when he came home on the day of the incident. According to Mrs.

Knight, the claimant was fine when he left for work that morning.

On cross examination, Mrs. Knight essentially testified that after the claimant's release following his softball injury, he had not experienced any trouble with his knee until the July 1, 2001 incident.

Johnny Lee Vincent, a former employee for the respondent gave testimony during the hearing. According to Mr. Vincent, he was the claimant's supervisor when his alleged injury occurred. Although Mr. Vincent could not recall the exact date, he remembered seeing the claimant in the control room with his pant leg pulled up. According to Mr. Vincent, the claimant told him he was having problems with a previous injury that had happened some time before he transferred over to his shift. Mr. Vincent testified that he could not recall the claimant advising him of a knee injury while working on his shift, but he did recall the claimant showing up on crutches during one of his shifts.

A Prehearing Conference was held in this claim on November 1, 2004. Pursuant to that conference, a Prehearing Order was entered on that same date. The Prehearing Order reflects the stipulations entered by the parties, which include the following:

- 1). The existence of employer/employer relationship on July 2, 2001.
- 2). Claimant and Respondent No. 1 have stipulated to a compensation rate of \$410.00- TTD and \$308.00- PPD, Respondents No. 2, the Trust Fund, may stipulate to a compensation rate once discovery is complete.

The parties agreed to litigate the following issue:

- 1). Compensability, with the issue of permanent total disability being reserved.

The claimant amended his contentions thereby contending that he sustained a compensable injury to his left knee on July 1, 2001 rather than July 2, 2001. The claimant withdrew his previous alternative contention that his injury was sustained as a result of gradual onset.

Respondent No. 1 controverts the claim in its entirety contending that the claimant did not sustain a specific trauma associated with his employment and that any injury he did sustain was not the major cause of his condition. Respondent No. 1 withdrew its previous contention that the claimant did not give timely notice of his injury.

Since the issue of permanent total disability was reserved and held in abeyance, Respondent No. 2 waived its appearance at the hearing.

After a hearing before the Commission, the administrative law judge found, "Claimant has failed to prove by a preponderance of the evidence that he sustained a compensable injury arising out of the course and scope of his employment on July 1, 2001."

The claimant appeals to the Full Commission.

II. Adjudication

The facts giving rise to this claim were not in dispute. On or about July 1, 2001, the claimant suffered a left knee injury in the form of a torn medial meniscus, which required surgery and resulted in a staph infection that has since been resolved. The central issue in this claim is whether the claimant's knee injury was idiopathic in nature and non-compensable. The administrative law judge essentially found that the claimant suffered a non-compensable idiopathic knee injury, which was in fact degenerative and personal in nature. The Full Commission reverses this finding. We find that the claimant's injury resulted from a specific incident injury arising out of and in the course of his employment with respondent.

An idiopathic injury is one whose cause is personal in nature, or peculiar to the individual. See Kuhn v. Majestic Hotel, 324 Ark. 21, 918 S.W.2d 158 (1996); Little Rock

Convention & Visitors Bur. v. Pack, 60 Ark. App. 82, 959 S.W.2d 415 (1997); Moore v. Darling Store Fixtures, 22 Ark. App. 21, 732 S.W.2d 496 (1987). Injuries sustained due to an unexplained cause are different from injuries where the cause is idiopathic. ERC Contractor Yard & Sales v. Robertson, 335 Ark. 63, 977 S.W.2d 212 (1998). Where a claimant suffers an unexplained injury at work, it is generally compensable. Little Rock Convention & Visitors Bur., supra. Because an idiopathic injury is not related to employment, it is generally not compensable unless conditions related to the employment contribute to the risk by placing the employee in a position, which increases the dangerous effect of the fall. Id. Employment conditions can contribute to the risk or aggravate the injury by, for example, placing the employee in a position which increases the dangerous effect of a fall, such as on a height, near machinery or sharp corners, or in a moving vehicle. Id.

The present situation is similar to the facts found in Crawford v. Single Source Transportation Company, ___ Ark. App. ___, ___ S.W.3d ___ (June 30, 2004), the claimant injured his knee while climbing out of a cement truck. The claimant in that case testified that he had stopped his truck at a construction site, opened the door, and climbed

down the steps. He stated that when he stepped down to the ground, his knee gave way causing him to fall. Later medical examinations indicated the claimant had a torn medial meniscus and osteoarthritis in the left knee. The Commission denied benefits holding that this injury was idiopathic probably due to the claimant's prior arthritic condition. However, the Court of Appeals reversed and held that the injury was not simply personal in nature where it was caused as he attempted to exit his employer's vehicle from an elevated position, which employment conditions contributed to his accident.

We believe that this case is controlled by the Court's decision in Crawford. We find that the claimant's employment conditions contributed to his knee injury wherein he was required to repeatedly walk up and down steps throughout his workday.

In the present matter, the claimant credibly testified that he experienced an onset of pain in his knee while coming down the steps of his assigned unit some time around 11:00 a.m. Thereafter, the claimant's pain got progressively worse, as he could hardly stand or get up from his seat after taking his lunch break. A subsequent MRI revealed that the claimant had preexisting degenerative

disease and a torn medial meniscus in his left knee. In a letter dated October 16, 2002, Dr. Hahn opined that the claimant's torn medial meniscus resulted from his recent work injury.

Considering Dr. Hahn's expert opinion and in light of the claimant's credible account of the incident, the Full Commission finds that there is insufficient evidence to support a finding that the injury suffered by the claimant was personal in nature, as it was caused while descending the steps of his unit. We therefore find that the claimant's knee injury was not personal in nature nor did it result due to his degenerative disease but was a compensable specific-incident workplace injury, which arose out of and in the course of his employment.

Based on our *de novo* review of the entire record, the Full Commission finds that the claimant proved that he sustained a compensable injury to his left knee on July 1, 2001, which arose out of and in the course of his employment with the respondent. Therefore, we reverse the opinion of the administrative law judge.

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. 1996).

Since the claimant's injury occurred on July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as amended by Act 1281 of 2001. Compare Ark. Code Ann. § 11-9-715 (Repl. 1996) with Ark. Code Ann. § 11-9-715 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

_____IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

Commissioner McKinney dissents.