

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F408476

SANDRA ERWIN,  
EMPLOYEE

CLAIMANT

RIVERSIDE FURNITURE,  
SELF-INSURED EMPLOYER

RESPONDENT

OPINION FILED SEPTEMBER 19, 2008

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

Claimant represented by the HONORABLE STEPHEN M. SHARUM,  
Attorney at Law, Fort Smith, Arkansas.

Respondent represented by the HONORABLE E. DIANE GRAHAM,  
Attorney at Law, Fort Smith, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The respondent appeals and the claimant cross-appeals an administrative law judge's opinion filed September 26, 2007. The administrative law judge found that the claimant failed to prove she had sustained reflex sympathetic dystrophy as a result of the compensable injury. The administrative law judge found that the claimant's May 19, 2006 fall at home was not a compensable consequence of the claimant's injury. The administrative law judge found that

the claimant proved she had sustained a compensable injury to her left sural nerve in addition to traumatic arthritis. The administrative law judge found that the claimant proved she was entitled to temporary total disability from September 20, 2004 through June 20, 2007.

After reviewing the entire record *de novo*, the Full Commission affirms the administrative law judge's decision in part and reverses in part. The Full Commission finds that the claimant did not prove she sustained reflex sympathetic dystrophy as a result of the compensable injury, and that the claimant's May 19, 2006 fall at home was not a compensable consequence of the claimant's injury. We find that the claimant did not prove she sustained a compensable left sural nerve injury and that the claimant did not prove she sustained traumatic arthritis as a result of the compensable injury. The Full Commission finds that the claimant did not prove she was entitled to temporary total disability compensation.

#### I. HISTORY

The record indicates that Sandra Pauline Irwin, age 57, was first hired at Riverside Furniture Corporation in July 1971 and was re-hired in February 1994. Ms. Irwin testified that her job duties included being a sprayer, repair person,

and lead lady. The parties stipulated that the claimant sustained a compensable injury to her left ankle on September 10, 2003. The claimant testified that she stepped on a pallet with her right foot and tripped: "My right knee went down to the pallet in front of me and my left leg went straight down in between two pallets. I skinned my leg, the left leg, on the right side from the ankle almost up to the knee....And I hurt my foot; I hurt my left foot."

The claimant testified, "I got where I couldn't hardly walk at all on my left foot[.]" The claimant testified that she felt pain in her foot and ankle.

Radiographic findings were entered on October 7, 2003: "**LEFT ANKLE:** There is soft tissue swelling at the lateral malleolar region. There is no fracture or other acute bony lesion identified. **LEFT FOOT:** There is no acute fracture line, dislocation, or other acute osseous abnormality." The impression of Dr. Terry L. Clark on October 21, 2003 was left ankle sprain. Dr. Clark noted on November 11, 2003, "On examination, she has no tenderness to palpation. No edema and no discoloration. Neurovascularly, she is intact....She is released to return to work without restrictions. Follow-up as needed."

The claimant testified that she returned to work following Dr. Clark's November 11, 2003 release.

A Radiology Report was done on January 6, 2004:

**LEFT ANKLE, THREE VIEWS:**

There is mild narrowing at the ankle mortise. There is mild soft tissue swelling laterally. There is an os trigonum. No fractures, dislocations are seen.

**IMPRESSION:**

Mild soft tissue swelling. Mild narrowing of the ankle mortise.

**LEFT FOOT, THREE VIEWS:**

Mild osteopenia. Minimal narrowing at the first metatarsal and at the interphalangeal joints. No fractures or other acute bony abnormalities detected. No focal bony erosions.

**IMPRESSION:**

Mild narrowing of the interphalangeal and first metatarsal phalange joints and osteopenia. If symptoms suggest stress fracture, follow-up may be of use in seven to ten days.

The claimant began undergoing a series of physical therapy treatments beginning March 9, 2004 until April 2, 2004. The claimant's testimony indicated that her job duties were changed from lead person to sprayer or finisher on or about April 18, 2004.

Another Radiology Report was entered on May 18, 2004:

**LEFT ANKLE, THREE VIEWS:**

**FINDINGS:**

1. Soft tissue swelling, consistent with soft tissue injury.

2. No fracture or acute osseous abnormality demonstrated.

**LEFT FOOT, THREE VIEWS:**

No fractures or dislocations are demonstrated. No arthritic changes are present.

**IMPRESSION:**

No significant abnormality.

Dr. Michael S. Wolfe examined the claimant on May 18, 2004 and noted, "Radiographs of the foot and ankle region are essentially within normal limits." Dr. Wolfe's impression included "3. Plantar fasciitis and peroneal tendonitis....She was given a support for the ankle." Dr. Wolfe started the claimant on physical therapy.

Dr. Tonya L. Phillips provided an Electromyogram Report on July 6, 2004:

**NERVE CONDUCTION STUDY:** This nerve conduction study is performed of the bilateral lower extremities. The results are attached. We are unable to obtain H-reflexes. We are unable to obtain sural sensory conduction velocities.

**EMG:** An EMG is performed of the left lower extremity including left vastus lateralis, left tibialis anterior and left gastrocnemius. It reveals normal insertional activity with no evidence of fibrillation potentials or sharp positive denervation potentials. Individual motor units are within normal limits. Interference and recruitment pattern is full.

**IMPRESSION:** This is an abnormal nerve conduction study with absent H-reflexes and absent sural sensory conduction velocities consistent with

predominately sensory axonal neuropathy. EMG is performed and revealed no evidence to suggest radiculopathy.

A Whole Body Bone Scan was also performed on July 6, 2004: "There is some asymmetric uptake in the left ankle compared to the right ankle, probably arthritic in nature. Both knees show uptake also likely arthritic. No obvious bony uptake seen to suggest osseous metastatic disease. IMPRESSION: Findings suggest arthritic uptake in the lower extremities as described. Otherwise unremarkable."

The claimant followed up with Dr. Wolfe on July 12, 2004: "Overall she is still having some back pain but no other neurologic symptoms. She did have a bone scan consistent only with some mild arthritis. She did have EMG and NCVs consistent with a sensory neuropathy....Because of the sensory neuropathy we will set her up for a follow up appointment with neurology again. I will see her in one month."

Dr. Brian H. Rodgers saw the claimant on August 5, 2004 and assessed "Neuropathy." Dr. Donald P. Samms assessed "Left leg pain" on August 10, 2004. Dr. Rodgers reported on August 18, 2004, "Sandra Erwin comes in saying that she needs a note for work. She indicates that she is seeing a neurologist tomorrow. Regarding the note for work, she says

that she does work at Riverside and did attempt to go to work at Riverside yesterday where she is apparently supposed to be on light duty. She indicates that the nurse at Riverside sent her home yesterday at approximately noon because she 'could not walk.' Beyond that she could not explain why she could not walk....I did go ahead and give her a note, indicating that she needed to get any further notes from either the neurologist she is seeing or whoever else. Will follow up in the clinic on a p.r.n. basis." Dr. Rodgers assessed "Neuropathy, based on Dr. Wolfe's notes, associated with left leg pain."

Dr. Phillips examined the claimant on August 19, 2004 and assessed the following: "1. A patient with sensory axonal neuropathy the etiology of which is not clear. 2. Probable left lower extremity reflex sympathetic dystrophy secondary to the trauma she experienced one year ago." Dr. Phillips recommended additional diagnostic testing and treatment for pain.

Evan Breedlove, the respondent's director of human resources, testified that the claimant's last day of work was September 16, 2004, and that he gave the claimant a company medical leave. The record indicates that the claimant was placed on medical leave beginning September 20,

2004. Mr. Breedlove testified that the claimant was paid group benefits for 13 weeks.

Dr. Phillips reported on September 30, 2004, "She is not able to work because she is not able to stand on the leg whatsoever and right now she is not very functional because she is not able to walk well without crutches because of discomfort in the leg....She had a bone scan but I am not sure they were looking for RSD. She does have some asymmetric uptake in the left ankle. I would like to repeat that making sure they know that we are looking for RSD and make sure it is triple phase."

A nuclear medicine three phase bone scan of the feet was taken on October 8, 2004: "Uptake in the talus may be due to arthritic change or recent trauma. Uptake in the 1<sup>st</sup> metatarsals appears fairly symmetric bilaterally. There is no significant discrepant flow to suggest reflex sympathetic dystrophy."

The claimant followed up with Dr. Phillips on October 28, 2004: "Her EMG did reveal evidences of neuropathy and it was symmetric in upper and lower extremities. I do not think it was likely the etiology of her worsening pain although it may predispose her to pain....I really am not sure what is going on. This may be arthritic or bony

involvement....At this point in time there is not a lot of evidence to suggest that she has RSD....We will make her an appointment with Dr. Deneke."

Dr. Wolfe noted on November 15, 2004, "She says she still has some pain and swelling in the left foot. Her examination of the foot really reveals only diffuse tenderness without significant localized pain. There is no significant swelling today. The previous injection did not help a great deal. I do think her problems are mainly that of mechanical low back pain with some bursitis of the hip as well as some tendonitis of the foot."

Dr. James S. Deneke examined the claimant on December 6, 2004 and assessed, "1. Left leg pain with onset status post on-the-job injury without signs of obvious arthritic process. History and findings certainly could be consistent with a sympathetic dystrophy, possibly reflecting some pain related to lower back. 2. Nerve injury, by nerve conduction studies, unclear relationship to #1, since it is bilateral." Dr. Deneke recommended a conservative course of treatment for the claimant's pain and stated, "I do not see any signs of connective tissue disease or inflammatory arthropathy at this time."

The claimant followed up with Dr. Wolfe on December 14, 2004: "She says she still has some pain in the foot. The previous injection did not help....I do think that she does have problems relating to reflex dystrophy. I would like to get an MRI however of the foot and ankle."

An MRI of the claimant's left ankle and foot was taken on December 16, 2004:

There is a small amount of fluid in the tibiotalar joint. No evidence of tendon rupture or ligament tear appreciated. No bone contusion/marrow edema. No abnormal soft tissue masses. There is some soft tissue edema both medially and laterally, more medially, about the ankle. There is a small amount of subcutaneous soft tissue edema along the dorsum of the lateral hindfoot and laterally over the metatarsals 4 and 5. There is a small cyst in the calcaneus at the level of the sinus tarsi, about 5 mm size.

**IMPRESSION:**

Some mild soft tissue swelling as described above and small calcaneal subchondral cyst.

Dr. Wolfe noted on December 20, 2004, "The MRI revealed only some mild soft tissue swelling and otherwise was essentially within normal limits. I still think this may be evidence of reflex sympathetic dystrophy. I would like to keep her on her feet only two hours a day for six weeks. I will recheck her in six weeks."

The claimant's attorney questioned Dr. Phillips at a deposition taken December 29, 2004:

Q. Doctor, I'm going to ask you at this point, within a reasonable degree of medical certainty, can you tell us that the treatment that Ms. Erwin is going through at the present time with Dr. Wolfe, with Dr. Denke (sic), with Dr. Swicegood and yourself, is, in your opinion, this treatment related to the job injury she sustained when she fell through the pallet at Riverside?

A. She relates her symptoms to that time. Whether or not all of that's related to that, I think it's very difficult to say because she has underlying nerve injury, which is not related to that.

Q. Okay.

A. So it is very difficult to say that with 100 percent certainty.

Q. And explain to me what underlying nerve -

A. Her neuropathy.

Q. Neuropathy that's - that you're saying is not related?

A. That is not related....

Q. What's the basis of that?

A. It is bilateral. It's in both lower extremities. And if it was related to trauma, it would be asymmetric, only that lower extremity which was injured. And that's not the case....

The respondent's attorney questioned Dr. Phillips:

Q. So basically, what this lady has are no objective signs or symptoms of RSD; she has some arthritic changes in her ankles and her knees, and she has a bilateral sensory neuropathy, which we know is not caused by any kind of trauma?

A. That's correct....

Q. [S]he doesn't have nerve damage to her left leg, does she?

A. Not that we can document.

Q. Okay. There's nothing objective that would show there's nerve damage to the left leg?

A. Correct....

Q. And my last question relates to the triple phase bone scan which was done October the 8<sup>th</sup> of '04. The language used in the impression section was, "uptake in the talus may be due to arthritic changes or recent trauma." What does recent trauma mean?

A. A recent injury to that area.

Q. And what does recent mean in - in regard to a recent injury to that area.

A. Within the last few days, few weeks.

A hearing was held on January 4, 2005. The claimant testified that she had remained off work since September 17, 2004 because of her compensable injury. The claimant testified that she was physically unable to walk on her left foot for an extended time. The claimant testified at a later hearing that her symptoms greatly worsened following the January 2005 hearing.

Dr. John R. Swicegood performed lumbar sympathetic nerve blocks on March 1, 2005, March 3, 2005, March 8, 2005, and March 10, 2005. The pre- and post-operative diagnosis was Complex Regional Pain Syndrome Type 1 left foot. The

claimant testified that she felt she benefitted from Dr. Swicegood's treatment.

An administrative law judge (ALJ) filed an opinion on March 31, 2005. The ALJ found, among other things, that the claimant failed to prove she sustained "a compensable injury or compensable consequence in the form of reflex sympathetic dystrophy (RSD)." The ALJ found, "An evaluation and testing by the physician heading the hand and foot section of the orthopaedic department of the University of Arkansas School for Medical Sciences constitutes reasonably necessary medical services for the claimant's admittedly compensable injury to her left ankle/foot." The ALJ reserved a decision regarding additional medical services or temporary total disability benefits. The Full Commission affirmed and adopted the ALJ's March 31, 2005 opinion.

Dr. John R. Swicegood corresponded with the claimant's attorney on April 25, 2005:

Ms. Erwin presented to my service on 02/25/2005 with a history of falling injuring her left ankle in September 2003. She had related numerous medical trials, physical therapy efforts, an extensive convalescence, all of which did not relieve persistent pain in her left ankle. Upon exam, I found her ankle to be swollen. It had a marked diminished range of motion. It had a dystrophic appearance to the skin and it was exquisitely tender to any type of weightbearing.

However, its temperature was only slightly less than the temperature of 30-30 degrees on the right side and it did not appear at that point in time to have a significant component of allodynia or hyperpathia present. My impression at that time was a posttraumatic arthritis however it did have some characteristics of a mild complex regional pain syndrome type I which is otherwise commonly referred to as reflex sympathetic dystrophy "RSD." Medical therapy was re-instituted for which I prescribed Celebrex. Her response to sympathetic nerve blocks I believe was important in determining if in fact there was a significant sympathetic mediated pain component involved in her pain syndrome. We instituted a series of fluoroscopic directed lumbar sympathetic nerve blocks which markedly improved the color of her foot and ankle. It did diminish her pain. Her weightbearing did improve however, unfortunately, she had a tendency to relapse between treatments though overall we felt that we were making significant progress up until the time that her treatments were stopped and I was informed that she was leaving for a second opinion. I would like to point out that her temperature became more equal with her contralateral side however it became evident on subsequent exams that the ankle joint itself appeared to be hot which was not initially appreciated on her initial exam but became more evident as her foot began to improve with the sympathetic nerve blocks.

At this juncture, I think there was an element of sympathetic mediated pain which obviously improved with the sympathetic nerve blocks confirming my impression that there was probable RSD process involved in her ankle. The fact that her ankle joint became quite hot and remained hot confirms my initial impression that she may also have a posttraumatic arthritis in her joint which would account for the ankle joint being hot to the touch and still tender which would be a type of sympathetic independent mediated pain best addressed medically as well as perhaps the

orthopedic evaluation may be able to address that further....

In summary, based on my above findings, she has a possible RSD process in her left ankle. I think she also has a sympathetic independent mediated pain process that would be consistent with posttraumatic arthritis of the ankle. Further treatments need to involve continued medical therapy, physical therapy efforts, orthopedic opinion perhaps involving splinting, orthopedic interventions....

Dr. Ruth Thomas, UAMS Medical Center, provided an Independent Medical Evaluation on May 17, 2005:

She apparently fell off a palate (sic), falling onto her right knee with her left leg extended out flat. This was the beginning of her complaints and problems with the left foot.... Most recently, she has had four sympathetic nerve blocks. By her report, they have resulted in significant pain relief for several hours, but the effect has not been lasting. She has been diagnosed with mild reflex sympathetic dystrophy....

IMAGING:

Studies available are from last year. They include X-rays which show no pathology. There is certainly no evidence of arthritis although one view suggests that there could be some subtalar joint space narrowing....

On physical examination, she is noted to have normal sensation of the left foot. When able to relax, I can demonstrate normal dorsiflexion, plantar flexion, inversion and eversion, but she complains of pain with any pressure I cause with my hand in the instep. When asked to evert against resistance, she is able to do this but states that it causes pain from the pressure of my hand against her foot. The color

of the skin on the left is comparable to that on the right. Although I did not check her skin temperatures, I did note that, clinically, the temperature of the right was similar to that on the left. There was certainly no noticeable discrepancy.

I did not find significant edema of the left foot on examination today....

I recommended a sinus tarsi injection to determine if the subtalar joint could somehow be the underlying problem. This is based on her resistance to inversion/eversion on clinical examination and also the narrowing of the joint space seen on X-ray....The patient reported that the lateral foot pain was reduced by 70% by this sinus tarsi injection; however, the medial pain in the arch was not diminished.

In fact, by clinical examination there was still significant resistance to any palpation in the area of the arch.

#### ASSESSMENT/PLAN:

I have reviewed the radiology report on the MRI. It states some mild soft tissue swelling as described and a small calcaneal subchondral cyst (sic). I do not have the MRI available for review. On standing, this patient is able to do a double heel rise with appropriate inversion of the heel. I see no evidence of motor dysfunction. There is no evidence of skeletal pathology. She definitely has unexplained pain in the arch and sinus tarsi. The etiology is unclear.

I have reviewed the letter from Dr. Swicegood detailing the supportive evidence for mild RSD. He has included temperature and color changes which I did not observe today. He has also included edema which I did not observe....Based on the page that he provided from his textbook, it is possible that she has reflex sympathetic dystrophy, but I would not say that it is probable. As there are no skeletal findings, I believe reflex sympathetic dystrophy is a

reasonable diagnosis. I cannot comment about the recommendation surgical intervention. There is certainly no indication for surgery involving the foot and ankle....

Dr. Thomas manually wrote on May 17, 2005, "I cannot identify anatomical explanation for her complaints based on review of records including x-rays and my physical examination. Mild RSD remains best explanation."

Evan Breedlove corresponded with the claimant on May 23, 2005: "Riverside Furniture Corporation has a policy that allows up to 6 months medical leave of absence. Because you have exceeded this time period we must terminate your employment effective today, Monday May 23, 2005. Within the two weeks, you will receive information on continuing your insurance through COBRA. Your coverage (including prescriptions) technically ends on the date of termination, however if you elect COBRA coverage, it will go back and pick up from that date...."

The claimant testified that she fell at home on May 19, 2006: "I was going out the back door and I stepped down on the top step, and when I stepped down, that pain, that sharp pain went through my ankle, and when it did, I twisted and fell and knocked my knee out of place, broke it, landed on my right hand, knocked my wrist out of place and broke it."

The record indicates that the claimant received emergency treatment on May 19, 2006 for a fractured right wrist and fractured right tibia. The claimant complained that she had fallen down steps. The claimant reported that she had tripped. Dr. James W. Long reported on May 19, 2006, "This 55-year-old female fell down stairs on the date of admission. She was found to have a displaced Colles fracture on the right and a moderately depressed fracture of the lateral tibial plateau on the left." Dr. Long performed surgery on the claimant's left knee and right wrist.

The claimant returned to Dr. Thomas on December 20, 2006:

This is the second visit for this patient. She was initially seen in May 2005 as an independent medical examination. At that time I tried an injection into the sinus tarsi of her injured left foot and she obtained about 60% relief in her symptoms, which she states lasted for almost a month. She is back today stating that her symptoms are much worse. She states that because this is a Worker's Compensation claim she has been unable to get any type of treatment for her foot and ankle. She tells me that her attorney has advised her to return and ask me specifically what treatment is indicated....

Dr. Thomas administered injections and noted, "She reported that there was almost no pain in her left foot and ankle. She was very pleased with this finding." Dr. Thomas assessed "Likely sural nerve neuritis....The patient should

return either to myself or Dr. Jason Pleiman (sic) in Fayetteville and have a repeat sural nerve injection. If she gets the same amount of relief from an injection by either myself or Dr. Pleiman on another date then resection of the sural nerve should be considered as an option to nonsurgical management."

Dr. Wolfe examined the claimant on January 2, 2007 and gave the following impression: "Mrs. Erwin continues to be somewhat of a diagnostic dilemma but it does appear that she may have nerve entrapment syndrome. I think she would greatly benefit from surgical exploration and apparently, Dr. Thomas and Dr. Pleimann have come up with a very reasonable plan for treatment....I would like her to be on her feet for only two hours a day. I will allow the other aspects of the planning of Ms. Erwin's care to revert to Dr. Pleimann."

The impression of Dr. Jason H. Pleimann on February 14, 2007 was "Left ankle pain." Dr. Pleimann recommended additional diagnostic testing. An MRI of the claimant's left ankle without contrast was taken on February 20, 2007:

There is no evidence of bone contusion, fracture, avascular necrosis or osteochondral talar dome injury. The tarsal bones and proximal metatarsals are normal.

Ligaments: The anterior and posterior tibiofibular syndesmotic ligaments are intact. The anterior and posterior talofibular and deltoid ligaments are normal. The sinus tarsi and posterior subtalar joints are normal.

Tendons: The Achilles tendon is normal in size and signal intensity. The long extensor, long flexor and peroneal tendons are unremarkable. There is no evidence of tendon injury or tenosynovitis.

Miscellaneous: The plantar fascia is normal. No soft tissue masses are identified.

IMPRESSION: 1. Normal MRI of the left ankle.

Dr. Pleimann noted on February 28, 2007, "The MRI is normal. Impression is probable sural neuritis left ankle. A repeat injection was done today with 1% plain Lidocaine and after about 5 minutes she had complete relief of her pain." Dr. Pleimann's impression was "Sural neuroma discontinuity....I have recommended a neuroma excision with routing of the nerve into muscle. She understands she will be on crutches for about a week and then in a walking boot for four weeks. She also understands the risk of persistent phantom pain, wound healing problems, and return of neuroma formation."

The claimant testified that she underwent surgery in March 2007. The claimant testified that surgery "relieved the pain underneath the ankle, but it didn't relieve the rest of the pain in my foot and it didn't do anything for

the coloration of my foot. It just relieved the pain underneath the ankle." The claimant underwent some physical therapy sessions beginning May 7, 2007.

A pre-hearing order was filed on June 7, 2007. The claimant contended, among other things, that she sustained a compensable injury on September 10, 2003. The claimant contended that she was entitled to temporary total disability benefits beginning September 17, 2004 to a date yet to be determined. The claimant contended that "as a result of the compensable injury to the left foot, she sustained a fall at home on May 19, 2006, which was a direct and natural consequence of the compensable injury because of the continuous weakness, pain, and lack of function of the left foot as a result of the compensable injury. The claimant contends that she is entitled to medical treatment for the consequences of this fall, including the emergency medical treatment and medical expenses of Dr. James Long and Sparks Regional Medical Center, for fractures to the right wrist and left knee."

The respondent contended, among other things, that the claimant was not entitled to temporary total disability benefits. The respondent denied that there was "any objective evidence of RSD; denies that there is any

objective evidence of an 'aggravation to preexisting neuropathy'; denies that there is any objective evidence of a back injury resulting from the September 10, 2003 injury." The respondent contended that it "has paid for all claimant's medical treatment through its group health insurance and has paid the claimant 13 weeks of short term disability benefits after she began medical leave on September 20, 2004." The respondent denied that the claimant's fall at home on May 19, 2006 was causally related to the 2003 injury.

The claimant returned to Dr. Pleimann on June 20, 2007:

She is still having some pain in the foot although it has improved since her sural neurectomy. Still undergoes some color change at times. She apparently has been diagnosed with RSD in the past and has had what sounds like a sympathetic block done.

PHYSICAL EXAMINATION: She is numb in the sural nerve distribution, has good passive range of motion in the ankle and hindfoot, but with some diffuse pain with motion. There is no swelling at the ankle joint. She has some mild weakness to peroneal muscle testing.

Dr. Pleimann gave the following impression: "Improved left ankle pain but with persistent symptoms....I do not think there is anything else that I have to offer her. I think it would benefit her to be re-evaluated for the possibility of ongoing RSD or chronic regional pain

syndrome. I think there is a significant chance that this may be a chronic painful condition for her, but I think it would be better evaluated and further managed by someone with an interest and experience in treatment of chronic regional pain syndrome."

A hearing was held on July 24, 2007. The claimant testified that her foot still "turns really dark and it starts hurting and it swells....My left foot is twice as dark as my right foot, and the more I'm on it, the darker it gets." The claimant testified that she could stand "two hours or less at one time." The claimant essentially testified that she needed additional medical treatment for her compensable injury.

The administrative law judge found, among other things, that the claimant did not prove she sustained a compensable reflex sympathetic (RSD) condition. The ALJ found that the claimant did not prove her May 19, 2006 fall at home was compensable. The ALJ found that the claimant injured her left sural nerve on September 10, 2003, and that the claimant sustained traumatic arthritis as a result of the compensable injury. The ALJ found that the claimant proved she was entitled to temporary total disability beginning September 20, 2004 through June 20, 2007.

The respondent appeals to the Full Commission and the claimant cross-appeals.

## II. ADJUDICATION

### A. Medical Treatment

The employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a). The claimant must prove by a preponderance of the evidence that she is entitled to requested medical treatment. *Wal-Mart Stores, Inc. v. Brown*, 82 Ark. App. 600, 120 S.W.3d 153 (2003). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Dalton v. Allen Eng'g Co.*, 66 Ark. App. 201, 989 S.W.2d 543 (1999).

In the present matter, the claimant proved she was entitled to treatment from Dr. Clark. The parties stipulated that the claimant sustained a compensable injury to her left ankle on September 10, 2003. Radiographic findings on October 7, 2003 showed soft tissue swelling in the claimant's left ankle with no fracture or other acute bony lesion. No acute fracture or other acute osseous abnormality was shown in the claimant's left foot. Dr. Clark diagnosed left ankle sprain. Dr. Clark examined the

claimant's left lower extremity on November 11, 2003 and reported no edema or discoloration and found the claimant to be neurovascularly intact. Dr. Clark released the claimant to return to work with restrictions, follow-up as needed.

Except for the independent medical evaluation provided by Dr. Thomas on May 17, 2005, none of the treatment provided following Dr. Clark's release was reasonably necessary in connection with the claimant's compensable left ankle sprain. Although radiograph reports beginning January 6, 2004 showed mild soft tissue swelling, Dr. Wolfe noted on May 18, 2004 that radiographs of the claimant's foot and ankle region were "within normal limits." The claimant began treating with Dr. Phillips on July 6, 2004. Dr. Phillips credibly testified that none of the diagnostic testing she performed showed a nerve injury which was causally related to the claimant's left ankle sprain. Dr. Phillips testified that the claimant's neuropathy was not causally related to the compensable injury. Dr. Phillips testified that the claimant's neuropathy was "bilateral. It's in both lower extremities. And if it was related to trauma, it would be asymmetric, only that lower extremity which was injured. And that's not the case." Dr. Phillips agreed that there were no objective signs or symptoms of

RSD, that the claimant's arthritis was not caused by trauma, and that there was no evidence of nerve damage in the claimant's left leg. Dr. Thomas opined following her independent evaluation on May 17, 2005, "I cannot identify anatomical explanation for her complaints based on review of records including x-rays and my physical examination."

The Full Commission recognizes that the claimant is not required to provide objective evidence of her continued need for treatment. *Castleberry v. Elite Lamp Co.*, 69 Ark. App. 359, 13 S.W.3d 211 (2000). Nevertheless, when the primary injury is shown to have arisen out of and in the course of employment, the employer is responsible for any natural consequence that flows from that injury. *McDonald Equip. Co. v. Turner*, 26 Ark. App. 264, 766 S.W.2d 936 (1989). Dr. Thomas did not state that the "sural nerve neuritis" she described in December 2006 was causally related to the September 2003 left ankle sprain. Nor does the evidence otherwise demonstrate that the claimant sustained sural nerve neuritis as a result of the September 2003 compensable injury. The record also does not show that the surgery performed by Dr. Pleimann in about March 2007 was causally related to the compensable injury. We note Dr. Thomas' statement on May 17, 2005, "There is certainly no indication

for surgery involving the foot and ankle." Dr. Thomas did not subsequently retract or modify her opinion that surgery was not needed for the claimant's ankle sprain.

Dr. Phillips reported and testified that the claimant did not sustain reflex sympathetic dystrophy, nerve damage, or post-traumatic arthritis as a result of the claimant's compensable injury. The Full Commission finds that Dr. Phillips' opinion in this regard is entitled to significant evidentiary weight. We reverse the administrative law judge's finding that the claimant injured her left sural nerve, and we reverse the ALJ's finding that the claimant sustained compensable post-traumatic arthritis. The Full Commission affirms the administrative law judge's finding that the claimant's injuries related to her fall at home on May 19, 2006 were not a compensable consequence of the claimant's compensable left ankle sprain occurring in September 2003.

B. Temporary Disability

For a scheduled injury the injured employee is to receive compensation for temporary total disability during the healing period or until the employee returns to work, whichever occurs first. *Wheeler Constr. Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W.3d 822 (2001). The healing period

is that period for healing of the injury which continues until the employee is as far restored as the permanent character of the injury will permit. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). If the underlying condition causing the disability has become more stable and if nothing further in the way of treatment will improve that condition, the healing period has ended. *Id.* Whether or not an employee's healing period has ended is a question of fact for the Commission. *Ketcher Roofing Co. v. Johnson*, 50 Ark. App. 63, 901 S.W.2d 25 (1995).

In the present matter, the administrative law judge found that the claimant proved she was entitled to temporary total disability beginning September 20, 2004 and continuing through June 20, 2007. The Full Commission reverses this finding. The claimant sustained a compensable injury to her left ankle, a scheduled injury, on September 10, 2003. Dr. Clark diagnosed left ankle sprain and released the claimant to return to work on November 11, 2003. The claimant testified that she returned to work following the November 11, 2003 release. The Full Commission finds that the claimant did not continue in a healing period for her compensable injury after November 11, 2003. A claimant is not entitled to temporary total disability after the end of

her healing period. *Elk Roofing Co. v. Pinson*, 22 Ark. App. 191, 737 S.W.2d 661 (1987). Nor is persistent pain sufficient in itself to extend a claimant's healing period. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982).

The record indicates that the instant claimant was placed on medical leave beginning September 20, 2004. However, placing the claimant on medical leave did not work to extend the claimant's healing period for her compensable injury, nor did the medical leave indicate that the claimant re-entered a healing period. We again note the opinions of Dr. Phillips and Dr. Thomas that there was no physical basis for the claimant's continued complaints of pain. The Full Commission again notes that the record showed no nerve damage or post-traumatic arthritis as a result of the claimant's left ankle sprain occurring in September 2003.

Based on our *de novo* review of the entire record, the Full Commission affirms in part and reverses in part the decision of the administrative law judge. The Full Commission finds that the claimant did not prove that she sustained reflex sympathetic dystrophy, post-traumatic arthritis, or sural nerve damage as a result of the September 10, 2003 compensable left ankle sprain. The

claimant did not prove that her May 19, 2006 fall at home was a compensable consequence of her compensable injury. The respondent is liable for medical treatment provided by Dr. Clark until November 11, 2003 and the independent medical evaluation performed by Dr. Thomas on May 17, 2005. None of the other treatment of record was reasonably necessary in connection with the claimant's compensable injury. The claimant did not prove that she was entitled to temporary total disability benefits beginning September 20, 2004. This claim is denied and dismissed.

IT IS SO ORDERED.

---

OLAN W. REEVES, Chairman

---

KAREN H. MCKINNEY, Commissioner

Commissioner Hood concurs in part and dissents in part.

**CONCURRING AND DISSENTING OPINION**

I must respectfully concur in part and dissent in part from the majority opinion. Specifically, I find, as did the Administrative Law Judge, that the claimant's May 19, 2006 fall at home was not a compensable

consequence of the claimant's compensable injury. I also find, as did the Administrative Law Judge, that the claimant did not prove that she sustained reflex sympathetic dystrophy as a result of her compensable injury. However, contrary to the majority, I find, as did the Administrative Law Judge, that the claimant did in fact prove that she was entitled to additional medical treatment for her compensable injury in the form of treatment for sural nerve damage and traumatic arthritis. I also find, as did the Administrative Law Judge, that the claimant is entitled to temporary total disability benefits from September 20, 2004 continuing through June 20, 2007, and therefore, I must respectfully dissent from the majority on these issues.

Injured employees must prove that medical services are reasonably necessary by a preponderance of the evidence; however, those services may include that necessary to accurately diagnose the nature and extent of the compensable injury; to reduce or alleviate symptoms resulting from the compensable injury; to maintain the level of healing achieved; or to prevent further deterioration of the damage produced by the compensable injury. Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2002);

Jordan v. Tyson Foods, Inc., 51 Ark. App. 100, 911 S.W.2d 593 (1995). A claimant does not have to support a continued need for medical treatment with objective findings. Chamber Door Industries, Inc. v. Graham, 59 Ark. App. 224, 956 S.W.2d 196 (1997).

Here, the parties stipulated that the claimant sustained a compensable injury to her left ankle on September 10, 2003 when she stepped on a pallet with her right foot and tripped. While the majority states that the claimant proved that she was entitled to reasonably necessary treatment for her compensable left lower extremity injury, the majority in fact only awards the claimant the treatment she received from Dr. Clark. Dr. Clark diagnosed the claimant with a left ankle "sprain" and on November 11, 2003 released the claimant to return to work with restrictions, follow up as needed. The majority states that none of the treatment provided to the claimant after Dr. Clark's release was reasonably necessary in connection with the claimant's compensable left ankle "sprain." However, I find that the medical record clearly shows that the majority has erred. While I agree with the majority that the claimant has not proved (for the purposes of Arkansas workers' compensation law)

that she suffers from left lower extremity reflex sympathetic disorder or "RSD", based on the medical evidence, I cannot agree with the majority's conclusion that the claimant's compensable lower left extremity injury was only a "sprain" that did not require any medical treatment after November 11, 2003.

The medical evidence shows that in addition to Dr. Clark's "sprain" diagnosis, Dr. Swicegood, Dr. Thomas, and Dr. Pleimann have diagnosed the claimant with post-traumatic arthritis. The post traumatic arthritis in the left foot/ankle is objectively documented by an elevated "sed rate" noted by Dr. Wolfe on June 17, 2004 and an abnormal uptake of radioisotope in the left ankle/foot noted on the bone scans of July 6, 2004 and October 8, 2004. In addition to the post traumatic arthritis, in his April 25, 2005 report, Dr. Swicegood objectively documents sural nerve neuritis:

The fact that her ankle joint became quite hot and remained hot confirms my initial impression that she may have a post traumatic arthritis in her joint which would account for the ankle being hot to the touch and still tender which would be a type of sympathetic independent mediated pain best addressed medically.

Based on the above, I find, as did the Administrative Law Judge, that the preponderance of the evidence shows that the claimant's September 10, 2003 accident and the resulting injuries to her left foot and ankle, stipulated compensable by the parties, resulted in both the post traumatic arthritis and localized sural neuritis. The medical record shows that the symptoms indicative of the presence of these conditions appeared within a reasonable period of time following this employment related accident. The evidence shows no other reasonable cause for the presence of these two conditions. Therefore, I find that the claimant proved by a preponderance of the evidence that she was entitled to additional medical treatment for her compensable injury in the form of treatment for sural nerve damage and traumatic arthritis, including the testing necessary for the claimant's doctors to diagnose her condition. See Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2002); Jordan v. Tyson Foods, Inc., Supra.

Second, I find that the claimant is entitled to temporary total disability benefits from September 20, 2004 continuing through June 20, 2007. A claimant who has suffered a scheduled injury is entitled to benefits for

temporary total disability during his healing period or until he returns to work. Ark. Code Ann. §11-9-521 (Repl. 2007); Wheeler Construction Co. v. Armstrong, 73 Ark. App. 146, 41 S.W. 3d 822 (2001). The healing period ends when the underlying condition causing the disability has become stable and nothing further in the way of treatment will improve that condition. Mad Butcher, Inc. v. Parker, 4 Ark. App. 124, 628 S.W.2d 582 (1982), See Searcy Indus. Laundry, Inc. v. Ferren, 92 Ark. App. 65, 211 S.W. 3d 11 (2005).) The parties stipulated that the claimant sustained a compensable left lower extremity injury. The claimant's treating doctors are still actively providing the claimant medical treatment to improve her condition, therefore, the claimant remains in her healing period. The evidence of record shows that while the claimant has attempted to return to regular gainful employment, she has not been able to do so. As justification for denying the claimant temporary total disability benefits, the majority finds that the claimant's healing period ended on November 11, 2003, the date that Dr. Clark diagnosed the claimant as having a left ankle "sprain" and released the claimant to return to work. As discussed above, the preponderance of the evidence of record, regardless of Dr. Clark's

optimistic diagnosis of "sprain," clearly shows that the claimant is still in need of medical treatment. While I am touched by the majority's Pollyanna-ish insistence that the claimant only had a "sprain" and that she reached the end of her healing period on November 11, 2003, the majority's sunny outlook is simply not supported by the evidence of record.

In conclusion, I find that the claimant has proved by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable left lower extremity injury in the form of treatment for sural nerve damage and traumatic arthritis. Furthermore, I find that the claimant has proved by a preponderance of the evidence that she has remained in the healing period and is entitled to temporary total disability benefits for her scheduled injury from September 20, 2004 continuing through June 20, 2007.

For the aforementioned reasons I must respectfully concur in part and dissent in part.

---

PHILIP A. HOOD, Commissioner