

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F800059

RITA LEAL, EMPLOYEE	CLAIMANT
MAPLES AT HAR-BER MEADOWS, EMPLOYER	RESPONDENT
CANNON COCHRAN MANAGEMENT, CARRIER	RESPONDENT

OPINION FILED NOVEMBER 12, 2008

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

Claimant represented by HONORABLE EVELYN BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondent represented by HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the Administrative Law Judge filed July 1, 2008.

The Administrative Law Judge entered the following findings:

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on February 20, 2008, and contained in the pre-hearing order filed that same date, are hereby accepted as fact.

2. The parties stipulation that claimant earned sufficient wages to entitle her to compensation at the rate of \$160.00 for total disability benefits and \$154.00 per permanent partial disability benefits is also accepted as fact.
3. Claimant has met her burden of proving by a preponderance of the evidence that she suffered a compensable injury to her right wrist in the form of a contusion on or about March 2, 2007.
4. Respondent is liable for payment of the emergency room visit of March 3, 2007, treatment for which it has already paid.
5. The claimant failed to prove by a preponderance of the evidence that her wrist problems subsequent to March 3, 2007 are causally related to her original compensable right wrist contusion.

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 Hood dissents.

DISSENTING OPINION

I must respectfully dissent from the majority opinion finding that the claimant failed to prove entitlement to benefits subsequent to March 3, 2007 for a compensable injury occurring on March 2, 2007.

The opinion of the Administrative Law Judge was affirmed and adopted in its entirety by the majority without additional discussion. Therefore, the opinion of the Administrative Law Judge and all of the findings and

conclusions contained in that decision are now the majority opinion. Death & Permanent Total Disability Trust Fund v. Branum, 82 Ark. App. 338, 107 S.W.3d 876 (2003).

HISTORY

The claimant worked as a nurse's aid. On March 2, 2007, she sustained an admittedly compensable injury when she was attempting to get a patient out of bed and into a wheelchair. As she attempted to perform this maneuver, the patient fell on top of her, pinning her right hand between the patient and the bed. As a result, the claimant suffered an injury to her right wrist, with pain and swelling. The next day, the claimant was sent to the emergency room by her supervisor where she was diagnosed with a contusion of the right wrist. Her discharge instructions from the hospital indicated a diagnosis of tendinitis and instructed her to make an appointment with an orthopedic surgeon. The claimant attempted to continue working for the employer but was unable to do so because of the pain and physical limitations imposed upon her by the injury. The claimant testified that, instead of seeking additional medical

treatment, she stayed at home and avoided using her right hand. After an approximate nine-month period of rest, her condition improved and she returned to work for another employer. However, after working for approximately one-and-one-half months, the pain returned and she sought additional medical treatment. The claimant was seen by Dr. K. Marcus Poemoceah, who ordered an MRI of the claimant's right wrist. The MRI showed "findings suggestive for carpal tunnel syndrome". Dr. Poemoceah diagnosed tendinitis. The claimant was next seen by Dr. Nancy L. Jones, who diagnosed carpal tunnel syndrome. On June 5, 2008, Dr. Jones wrote:

I am writing regarding Rita Leal. She has performed repetitive jobs at work, and states she had an accident a little over 1 year ago at work when she fell when she was working as a CNA. I have diagnosed her with carpal tunnel syndrome. I feel that carpal tunnel syndrome is generally an overuse type of injury, but she has had a fall which has aggravated and injured the wrist. I do not know of any injury since that time.

ANALYSIS

A finding of compensability in this case calls for proof, by a preponderance of the evidence, of a specific incident, identifiable by time and place of occurrence, arising out of and in the course of employment, causing physical harm to the body, requiring medical treatment or resulting in disability, which is established by medical evidence and supported by objective findings. Ark. Code Ann. §11-9-102(4)(E)(i); §11-9-102(4)(A)(i); and §11-9-102(4)(D).

In the frequently cited case of Hall v. Pittman Construction Co., 235 Ark. 104, 357 S.W.2d 263 (1962), the Arkansas Supreme Court made the following comment on the proper analysis of causation issues in workers' compensation cases:

If the claimant's disability arises soon after the accident and is logically attributable to it, with nothing to suggest any other explanation for the employee's condition, we may say without hesitation that there is no substantial evidence to sustain the commission's refusal to make an award.

The Administrative Law Judge found that the claimant had satisfied all of the elements of compensability required by the Act, except one. He erroneously determined that the claimant had failed to prove that her right wrist problems were causally related to her compensable injury of March 2, 2007. The evidence of record speaks loudly to the contrary. There is absolutely no evidence that the claimant had any pre-existing condition relating to her right wrist or that she sustained any injury subsequent to March 2, 2007. It is not disputed that she was taken to the emergency room on March 3, 2007, where an injury to the right wrist was objectively demonstrated by an observable contusion. She was diagnosed with tendinitis and told to see an orthopedic surgeon. The claimant attempted to recover from her problems by resting her hand. As long as she was inactive, she had little difficulty. However, once she began working, her problems resurfaced and she sought additional medical treatment. The first diagnostic procedure performed showed the presence of carpal tunnel syndrome which her treating physician related to her March

2, 2007 injury. The record contains no conflicting medical evidence. Under these facts, the claimant's carpal tunnel syndrome was logically attributable to her injury with no other explanation for it offered. Therefore, reasonable minds could not conclude that the claimant failed to prove a causal relationship between her compensable injury and the development of carpal tunnel syndrome.

For the reasons stated above, I respectfully dissent from the majority opinion.

PHILIP A. HOOD, Commissioner