

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F204900

LATESHA DEAN MORGAN, EMPLOYEE	CLAIMANT
DELUXE VIDEO SERVICES, INC., EMPLOYER	RESPONDENT
LIBERTY MUTUAL INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT

OPINION FILED JANUARY 17, 2008

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

Claimant represented by the HONORABLE CHRISTOPHER C. MERCER,  
JR., Attorney at Law, Little Rock, Arkansas.

Respondent represented by the HONORABLE MICHAEL R. MAYTON,  
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed.

OPINION AND ORDER

The Arkansas Court of Appeals has reversed the  
Commission in the above-styled matter and has remanded for  
further proceedings. *Morgan v. Deluxe Video Services, Inc.*,  
CA06-1134 (Sept. 12, 2007). After reviewing the entire  
record *de novo*, the Full Commission finds that the claimant  
did not prove she sustained a compensable injury.

I. HISTORY

LaTasha Dean Morgan, age 32, testified that she began working for Deluxe Video through a temporary service in 1995. Ms. Morgan testified that she started out in packaging, watching tapes on a conveyor belt. The claimant testified that she became a permanent employee in 1996 and that she worked in duplication. Duplication consisted of three areas: loading, duplication, and downloading. The claimant testified that duplication required loading and stacking tapes. The claimant testified with regard to duplication work, "In one hour I would have 4,096-plus hand and wrist actions or movements just from loading and unloading. In 12 hours I would have 49,152-plus hand and wrist actions and movements in loading and unloading. In the four and a half years in duplication - as a duplication operator I have had over 451,215,360-plus hand and wrist movements."

The claimant testified that, as a result of this "repetitive motion," she began feeling fatigue in her wrists and hands in about 1997. The claimant testified that she informed her supervisors that her hands were hurting, and that the employer provided her with wrist bands and wrist

splints. The claimant testified, "I wore a wristband from '98 on till I got my team leader's position around the end of '99 or the beginning of 2000, somewhere around there." The claimant testified that she did not work in duplication for a time after she became a team leader, but that she began physical activity for the employer again in about November 2000. At that time, testified the claimant, she began working in downloading. The claimant described downloading work as being hand intensive and also requiring many "movements per hour."

Tony Whitfield testified that he had previously been employed with Deluxe Video beginning in 1995 and that he eventually became the claimant's supervisor in the duplication department. Mr. Whitfield testified that a duplicator loaded and unloaded a set of 512 videotapes into VCR's. Mr. Whitfield agreed with the claimant's attorney that this process required "rapid or repetitive motion." Mr. Whitfield testified that the claimant complained of pain in her hands. An administrative law judge at hearing questioned Mr. Whitfield:

Q. How many tapes would she handle in the period of an hour?

A. In the period of an hour?

Q. Yeah.

A. Probably 4,000 or maybe 5,000 tapes, sir.

Q. And does that mean she put them into the machine and took them out?

A. Yes, sir.

Q. Four or 5,000 tapes?

A. You know - yes, sir. When you got a cart of 512 tapes, all right, then once you load them up - you've got to load all 512. Then once the movie is duplicated, you've got to pick all 512 back up....

Q. But and when she handled - when you said 5,000 tapes, that's taking it in the machine, out of the machine, and onto the cart?

A. And put them back on - pull them back on the same cart they came out of. But this time they have the movie on it.

James Christopher testified that he had been a supervisor in the duplication department and that he had known the claimant. Mr. Christopher's testimony essentially corroborated the other witnesses' testimony concerning the amount of videotapes which were duplicated. Mr. Christopher testified that many employees complained of problems with their hands. James Christopher could not recall any specific complaints from the claimant but he did remember "seeing her with the braces on" her hands.

The parties stipulated that the claimant sustained "a compensable right ganglion cyst" on April 12, 2002. The claimant testified that while downloading cassettes, "I picked the stack up my wrist - the tapes flew out but my wrist was forced - my hand touched the back of my arm and I felt this pop."

The record indicates that the claimant signed a WCC Form N on April 14, 2002. The claimant indicated on the Form N that she had sustained an accident at 3 a.m. on April 13, 2002, "Downloading." The claimant wrote that her right wrist hurt.

The claimant sought emergency treatment for right wrist pain on April 15, 2002: "She had been picking up a stack of tapes at Delux (sic) Video where she is employed, when she heard a pop in her right wrist. She denies any numbness, tingling, or paresthesias; just pain with lifting, supination and pronation. She denies any other injuries related to the above. She denies any previous trauma to her right wrist....Examination of the right wrist reveals no erythema, redness or bruising. There was no edema....X-ray of the right wrist was negative for fracture."

The emergency physician's impression was "Right wrist strain."

Dr. Cynthia Almond saw the claimant on April 15, 2002. According to Dr. Almond's transcription, the claimant felt a pop and abrupt right wrist pain after picking up a stack of tapes. Dr. Almond assessed wrist sprain, wrist pain, and wrist tenosynovitis.

An MRI of the claimant's right wrist was taken on May 2, 2002, with the impression, "1. Small area of cystic change in the proximal aspect of the hamate bone most compatible with intraosseous ganglion, with usually incidental finding to (sic). Suggestion of some possible mild marrow edema in the hamate bone which could represent reactive change due to trauma or stress."

Dr. Marcia L. Hixson corresponded with Dr. Almond on May 6, 2002: "She sustained an injury to her right wrist on 04/16/02 while picking up a stack of video tapes. She felt a pop in the right wrist....Examination shows slight dorsal swelling of the right wrist....There is no sign of tendonitis. Review of the right wrist x-ray shows that it is normal, with the exception of some cystic changes in the hamate. The review of the MRI shows a dorsal ganglion cyst,

which may be associated either with the hamate or with the scapholunate interosseous ligament. Ms. Dean has a traumatic dorsal ganglion cyst of the right wrist. At this point, she should use her right hand minimally or not at all in work, and should wear the splint. We will schedule her for excision of the cyst as soon as it has been approved."

The parties stipulated that Dr. Hixson was an authorized treating physician for the claimant's compensable injury. The claimant testified that she informed Dr. Hixson "I was having the same pain in my left wrist." Dr. Hixson performed an "Excision of synovial cyst, right wrist" on July 15, 2002. The pre- and post-operative diagnosis was "Dorsal ganglion cyst right wrist." Dr. Hixson arranged follow-up treatment for the claimant after surgery.

Dr. Hixson informed the respondent-carrier on October 21, 2002, "At this point, she should be able to use the right hand for light work which requires a minimum of wrist movement. She should be able to lift, push and pull up to 5-10 pounds. I expect these limitations to decrease as she gets better."

The claimant testified that Dr. Hixson released her in October 2002. The parties stipulated that the claimant received temporary total disability through October 2002.

The parties agreed that the claimant returned to work for the respondents in November 2002. The claimant testified, "I was supposed to be on light duty, but they didn't really have a light duty for me. So they had me pulling carts and I was hurting....I went back to her in November for that same pain....I complained to her about both wrists." Dr. Hixson noted on November 19, 2002, "There is no noticeable swelling in the wrist today. Ms. Dean continues to have pain in the right wrist after cyst removal....She is working at a light duty job where she does not use the right hand. I will reexamine Ms. Dean after the MRI."

Dr. Hixson informed the respondent-carrier on December 19, 2002, "She is now five months following excision of a dorsal ganglion cyst from her right wrist. Ms. Dean is stable at this point....Examination is unchanged from her last visit with localized tenderness beneath the surgical incision. The MRI performed today showed scar tissue dorsally but no ligamentous injury and no reformation of the

cyst. Ms. Dean will wear her splint as needed. She will return to work as of 12-20-02 with permanent restrictions that she should wear the splint on her right wrist and not use her right hand for work."

The claimant agreed on cross-examination that her employment with Deluxe Video ended on or about January 15, 2003. The record indicates that the claimant began working for another employer, Downtown Dental, at about this time. The claimant testified that she was a hygienist assistant, and that she loaded trays and set up rooms for patients.

Dr. Hixson stated on February 20, 2003, "Ms. Dean may have a mild right carpal tunnel syndrome. Today the carpal tunnel was injected with Lidocaine and Depo-Medrol. I will reexamine her in six weeks to see how the injection has worked. She is working now as an assistant in a dentist office."

The record indicates that Dr. R. Stephen Tucker referred the claimant to Dr. Bradley S. Boop, who performed electro-diagnostic testing in both of the claimant's upper extremities. Dr. Boop gave the following impression on April 9, 2003: "The right median conduction velocity has borderline slowing and the left median motor latency is

borderline prolonged. Sensory studies and F waves are normal. Electromyography in the right upper extremity is normal. These findings are uncertain but could be seen in mild early carpal tunnel syndrome. I do not consider this study diagnostic of that condition."

Dr. Hixson corresponded on May 7, 2003:

Ms. Dean has reached maximum medical improvement from the excision of the ganglion cyst from her left wrist. The date of maximum medical improvement was 12-19-02. Because of continued pain in the wrist she was advised to wear a splint on her right wrist and to use the hand minimally at work. These are most likely permanent restrictions. Based on loss of movement in the right wrist, Ms. Dean has a 4% loss of the right upper extremity.

The respondents' attorney indicated at hearing that the respondents accepted and paid a 4% rating to the wrist.

The claimant returned to Dr. Almond on May 14, 2003:

"Now c/o pain in both Rt and Lt wrists and hands. Dr. Hixson has dx CTS but states it is unrelated to the initial injury for which she was seen - ganglion cyst. On exam, pt c/o pain bilat volar wrists and hands, Rt worse than Lt. Pt has not worked for Deluxe Video since 12-02, but states her wrist pain is from her work at Deluxe. She is now working in Dental office and states she is unable to perform her required work there due to continued pain in wrist. Pt is

given carpal tunnel splint for Rt wrist, celebrex Rx and told to keep her recheck appt with dr. Hixson, 5-21-03. Released from our care."

Dr. Reginald J. Rutherford provided an EMG Report on May 21, 2003: "The nerve conduction study is normal. There is no evidence of median neuropathy either upper extremity. Regarding the diagnostic possibility of carpal tunnel syndrome, this has been addressed by both routine and internal comparative techniques which have proven uniformly normal."

Dr. Hixson corresponded with the carrier on May 21, 2003:

Ms. Dean was examined on 5-21-03 because of persistent pain in her wrist and hands and numbness in her fingers. She had a cortisone injection into the right carpal tunnel in February and she did not feel that this was helpful. She is trying to work as a dental assistant but her job duties cause her hands to hurt. She is also awakened from sleep with numbness in her fingers. Examination shows positive provocative testing for carpal tunnel syndrome bilaterally. She does not have any swelling and no evidence of tendonitis. She had a nerve conduction and EMG study today and these were both normal.

Ms. Dean has hand pain and numbness most likely from carpal tunnel syndrome. Today the right carpal tunnel was re injected with Depo Medrol and Lidocaine. I will reexamine Ms. Dean in two weeks. If the injection did help at all then I

will refer her to a pain management specialist. At this point she should not do any work that requires repetitive gripping or pinching.

Dr. Hixson stated on May 27, 2003, "Ms. Dean has been complaining of numbness and tingling in both hands since her visit of 2-20-03. She did not have complaints relative to these symptoms before that. It is my opinion that the bilateral carpal tunnel symptoms that Ms. Dean is having is (sic) not related to the injury of 4-14-02 and is probably not related to the employment at Delux (sic) Video."

The claimant informed Dr. Michelle Ibsen on May 28, 2003, "She has injured both wrists from repetitive pushing, pulling, and lifting." Dr. Ibsen assessed "Bilateral CTS diagnosed by Ortho" and referred the claimant to "An orthopedic surgeon and hand surgeon as soon as possible."

The claimant filled out another WCC Form N on May 28, 2003. The claimant wrote that she had injured both wrists while working in Duplication in "Mar./Apr. 2002." The claimant discussed the cause of injury: "Swelling, shooting pain in wrists from pulling, pushing, lifting, and the loading and unloading of duplication banks."

The claimant agreed on cross-examination that her employment at Downtown Dental ended on May 30, 2003. The

claimant agreed that she began drawing unemployment beginning in May 2003.

An orthopaedist, Dr. Thomas P. Rooney, saw the claimant on June 11, 2003:

Ms. Morgan is a twenty-seven year old lady with lateral wrist pain and numbness in the hands for about two years. She has worked at Deluxe Video for 7 years doing repetitive type activities and relates these symptoms to her job. She has not worked since January....she became a dental hygienist assistant recently....

Nerve conduction studies done by Dr. Bradley Boop on 04-09-03 did show mild early borderline carpal tunnel syndrome.

A MRI of the right wrist on 04-09-03 shows a small subchondral cyst in the proximal portion of the hamate, but no other abnormalities.

Clinically, she probably is developing carpal tunnel syndrome on both sides....

Since the nerve conduction studies are not definitely positive and because she has not gotten relief of her symptoms, even with cessation of the repetitive activities, the etiology of her complaints could be the repetitive activities that she has been doing at work; however, she does understand from her own research, carpal tunnel can be a spontaneous onset. The only other treatment I know would be surgical release of the carpal tunnel. If she decides to do this, this can be done as an out-patient under Bier block.

Dr. Hixson completed a Medical Provider's Statement on July 16, 2003. Dr. Hixson indicated that the claimant had been unable to work from July 15, 2002 until October 21,

2002. Dr. Hixson indicated that, beginning October 21, 2002, the claimant was able to perform work with the limitation of no repetitive motion or gripping/pinching.

Dr. Ralph D. Cash, an orthopedist, noted on August 15, 2003, "A 27-year-old married lady that gives me a history of pain in both hands and some in the forearm. She said for a number of years, worse in the past year. Both are equally right and left. She does a lot of typing and work on a computer....Clinically to me she has a very clear cut good history of carpal tunnel syndrome....I think she needs a right carpal tunnel release as an outpatient."

Dr. David M. Rhodes consulted with the claimant on August 26, 2003 and assessed "Bilateral carp tunnel syndrome, early." The supplemental diagnosis was "Synovitis left carpal tunnel." Dr. Rhodes recommended conservative treatment and stated, "I do think that secondary to the patient's job description that greater than 50% of her symptoms were secondary to her work."

Dr. Tucker stated on October 14, 2003, "Ms. Morgan has been seen in my office with wrist pain. Secondary to the patient's job description, I feel that more than 50% of her symptoms are related to her work."

Dr. Kevin J. Collins corresponded on October 16, 2003:

Patient is well known to me. I saw her two weeks ago and diagnosed her at that time with bilateral carpal tunnel syndrome, left worse than right, which I would characterize as moderate to severe. The findings are so significant that certainly this is something that has developed over time. Patient had a repetitive job where she worked for Deluxe Video for seven years which would be totally consistent with this. Patient originally complained of pain over a year ago. She was sent by her employer to a physician that treated her for a ganglion cyst on the dorsum of her hand which, from the patient's (sic) history, never improved her symptoms. It sounds to me that it was done in hopes that it would alleviate the problem and it didn't. In any event, she was later diagnosed with a history of carpal tunnel but felt that wasn't work related.

My medical opinion, given the severity of her findings, this is not something that happened in the last couple of months. This is something that has taken some time to develop. In my medical opinion, it is work related as well as Dr. Rhodes.

ASSESSMENT & PLAN:

- 1) I strongly support her claim that this is an overuse related injury.
- 2) I strongly recommend that she go forth with the surgery that she and Dr. Rhodes are presently scheduling and I suspect she will have a pretty good outcome.

Counsel for the respondents indicated at hearing that the claimant underwent carpal tunnel surgery on October 17, 2003. The claimant testified that Dr. Rhodes performed surgery on the claimant's left wrist. The claimant

testified that there "wasn't a change" in her physical condition following the left carpal tunnel release.

The record contains a November 20, 2003 note, apparently from Dr. Rhodes, indicating that the claimant "was off work from 10/17/03 thru 11/3/03 due to surgery on lt wrist." The claimant was assigned limitations of "No work involving affected extremity - continuous grasping, twisting, etc."

Dr. Hixson wrote to a representative of the respondent-carrier on November 25, 2003:

I received your letter of 11-24-03 asking that I review the job description and reassess Ms. Dean's carpal tunnel symptoms as related to her work at Deluxe Video.

When I first examined Ms. Dean on 5-16-02 she had a specific injury to the right wrist in which she felt a pop and developed a traumatic dorsal wrist ganglion. This was associated with some dorsal paresthesias on the wrist and hand but never any symptoms of carpal tunnel syndrome. She first complained of numbness and tingling in her fingertips with radiating pain from the right wrist to the right medial elbow on 2-20-03 some seven months following her previous surgery. At that time she was no longer working at Deluxe Video but working as an assistant in a dentist office where her job involved typing. She stated that she felt that the work she was doing as a dental assistant caused pain in her hands and that she was starting to be awakened from sleep with numbness in her fingers.

The job description from Deluxe Video was examined. Her job was that of a team leader of operations. The physical demands were that she should be able to lift up to 30 pounds and push and pull carts weighing up to 500-1250 pounds. There was also a statement that stated that she needed to use equipment. The statement did not give any more specifics. There was nothing in her job description that represented frequent or repetitive gripping or pinching or wrist movement. It is my recollection in discussing the job with Ms. Dean at Deluxe Video that she would have to do very little with her hands and that while she was still having problems with right wrist mobility following her ganglion surgery, she felt that she would be able to do the job.

It is my opinion that Ms. Dean has had two separate injuries. One occurred on 4-14-02 while working at Deluxe Video and represented a wrist sprain and traumatic ganglion cyst of the right wrist. The second injury is bilateral carpal tunnel syndrome. This was not reported or complained of until 2-20-03 after she had begun another job. It is possible that Ms. Dean had an underlying carpal tunnel syndrome during the time that she worked for Deluxe Video, however she never complained of any type of symptoms during this time. The symptoms became more apparent after she began working a different job, one that apparently required some gripping and typing activities.

I have reviewed the attached medical reports from Dr.'s Rhodes, Collins, Tucker and Cash. It does not appear that they reviewed any of my medical records regarding Ms. Dean's treatment and were apparently unaware of the injury to the right wrist that occurred in April 2002. It is still my opinion that the carpal tunnel syndrome is not a result of the 4-14-02 injury and did develop sometime later.

The claimant agreed that her unemployment benefits ended on November 29, 2003.

Dr. Rhodes saw the claimant on March 9, 2004 and assessed "Right carpal tunnel syndrome." Dr. Rhodes planned a right carpal tunnel release. The claimant testified that she did not undergo surgery on the right.

Dr. Rhodes saw the claimant on June 7, 2004: "Ms. Morgan was previously diagnosed with moderate to severe carpal tunnel syndrome bilaterally. She is status post left wrist tenosynovectomy on October 17, 2003. Patient states she continues to have numbness in the left upper extremity." Dr. Rhodes assessed "Bilateral carpal tunnel syndrome, status post left carpal tunnel release with continued numbness in a patient who was diagnosed with severe carpal tunnel syndrome."

Dr. Rhodes reported on June 17, 2004, "Latesha had her nerve conduction study that showed moderate carpal tunnel syndrome on the left and mild carpal tunnel syndrome on the right." Dr. Rhodes planned conservative treatment.

Dr. Tucker opined on July 13, 2005 that the claimant was unable to work and wrote that the claimant could not use

both wrists repeatedly for grasping, twisting, typing, lifting, pushing, pulling, etc.

A pre-hearing order was filed on August 31, 2005. The claimant contended that she "also sustained bilateral carpal tunnel syndrome, by gradual onset, for which she should be awarded benefits including reasonably necessary medical and related expenses and temporary total disability benefits from December, 2002, until the present. An attorney's fee for controversion was also requested." The respondents contended that the claimant's carpal tunnel syndrome was "not related to her employment with Deluxe Video Services, Inc., but may be related to work elsewhere."

The pre-hearing order indicated that the issue was "compensability."

A hearing was held on September 28, 2005. The claimant's testimony indicated that she still felt pain in both wrists. The claimant contended that she sustained a compensable carpal tunnel condition, that she was entitled to reasonably necessary medical treatment, and that she was entitled to temporary total disability from June 1, 2003 until the present.

An administrative law judge filed an opinion on December 21, 2005. The ALJ found, among other things, that "3. Compensable carpal tunnel syndrome has not been established by medical evidence, supported by objective findings, as required by the Act." The ALJ therefore denied and dismissed the claim. In an opinion filed July 13, 2006, a majority of the Full Commission affirmed and adopted the administrative law judge's decision. The Court of Appeals has reversed and remanded "for further consistent proceedings."

## II. ADJUDICATION

Ark. Code Ann. §11-9-102(4) (A) defines "compensable injury":

(ii) An injury causing internal or external physical harm to the body and arising out of and in the course of employment if it is not caused by a specific incident or is not identifiable by time and place of occurrence, if the injury is:  
(a) Caused by rapid repetitive motion. Carpal tunnel syndrome is specifically categorized as a compensable injury falling within this definition[.]

Because carpal tunnel syndrome is by definition a gradual-onset injury, it is not necessary that the employee prove that the injury was caused by rapid repetitive motion. *Cottage Café, Inc. v. Collette*, 94 Ark. App. 72, \_\_\_ S.W.3d

\_\_\_ (2006) citing *Kildow v. Baldwin Piano & Organ*, 333 Ark. 335, 969 S.W.2d 190 (1998).

A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102(4) (D). "Objective findings" are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102(16) (A) (i).

The employee's burden of proof shall be a preponderance of the evidence, and the resultant condition is compensable only if the alleged compensable injury is the major cause of the disability or need for treatment. Ark. Code Ann. §11-9-102(4) (E) (ii).

In the present matter, an administrative law judge found that the claimant did not prove she sustained a compensable injury. The Full Commission affirms this finding. The claimant testified that she began working for Deluxe Video in 1995 and that her work was hand-intensive. The claimant was loading numerous sets of videotapes into VCR's for downloading and production. The claimant's hands began hurting in about 1997, according to her testimony. Two witnesses testified that the claimant wore wrist

bands/splints and worked, and they also agreed that the claimant's work was hand-intensive.

The parties stipulated that the claimant sustained a compensable right ganglion cyst in April 2002. The claimant began receiving medical treatment for a specific-incident injury to her wrist. The Commission notes that neither the initial medical reports nor the first Form N indicated that the claimant was suffering from gradual hand-intensive symptoms in her hands and wrists. The medical evidence compiled during the claimant's employment with the respondents did not corroborate the claimant's testimony. Dr. Hixson performed surgery on the claimant's right wrist in July 2002, specifically, an excision of a dorsal ganglion cyst which resulted from an accidental injury. Dr. Hixson's notes did not corroborate the claimant's testimony that she suffered from gradual work-induced symptoms. Dr. Hixson released the claimant to return to work at Deluxe Video, with permanent restrictions, as of December 20, 2003. Again, there were no medical reports or other documentary evidence corroborating the claimant's testimony that she had been suffering from gradual symptoms in both hands.

The claimant began working in a dentist's office in January 2003. Dr. Hixson stated in February 2003 that the claimant "may have a mild right carpal tunnel syndrome." The claimant's testimony indicated that she became angry with Dr. Hixson because the claimant thought she had been mis-diagnosed. The claimant testified that she and Dr. Hixson eventually had a falling out. In any event, the respondents accepted and paid a 4% permanent rating assigned by Dr. Hixson in May 2003.

A company physician noted on May 14, 2003, for the first time in the case, that the claimant was suffering from bilateral hand and wrist problems. Yet the record demonstrates that the claimant had not performed any hand-intensive work for Deluxe Video since May 2002 at the earliest and December 2002 at the latest. The evidence does not show that the claimant's bilateral hand and wrist symptoms reported beginning in May 2003 were causally related to the claimant's employment which ended in December 2002.

Dr. Rhodes assessed bilateral carpal tunnel syndrome in August 2003, after the claimant had ceased working for the respondents for approximately eight months. The Full

Commission recognizes Dr. Rhodes' opinion on August 26, 2003 that "greater than 50% of her symptoms were secondary to her work." Dr. Tucker stated on October 14, 2003, "I feel that more than 50% of her symptoms are related to her work." Dr. Collins opined on October 16, 2003 that the claimant's condition was "work related." Nevertheless, it is within the Commission's province to weigh all the medical evidence and to determine what is most credible. *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). In the present matter, the most credible evidence before the Commission is the opinion of Dr. Hixson, the claimant's authorized treating physician. Dr. Hixson stated on May 27, 2003, "It is my opinion that the bilateral carpal tunnel symptoms that Ms. Dean is having is not related to the injury of 4-14-02 and is probably not related to the employment at Delux (sic) Video." Dr. Hixson noted on November 25, 2003, "It is still my opinion that the carpal tunnel syndrome is not a result of the 4-14-02 injury and did develop sometime later." The claimant was never diagnosed with carpal tunnel syndrome on the right or left during her employment with Deluxe Video.

Based on our *de novo* review of the entire record, and pursuant to the provisions of Act 796 of 1993 as codified at Ark. Code Ann. §11-9-102(4)(A)(ii) and following, the Full Commission finds that the claimant did not prove that she sustained a gradual onset injury which caused internal or external physical harm to her body. The claimant did not prove she sustained a gradual onset injury which arose out of and in the course of the claimant's employment with Deluxe Video. The claimant did not prove that the alleged compensable injury was the major cause of her disability or need for treatment. The Full Commission therefore affirms the administrative law judge's finding that the claimant did not prove she sustained a compensable injury. This claim is denied and dismissed.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. McKINNEY, Commissioner

Commissioner Hood dissents.

DISSENTING OPINION

The Majority erroneously found that the claimant did not prove that she sustained a gradual onset injury which caused internal or external physical harm to her body. The Majority further found that the claimant failed to establish that she sustained a gradual onset injury which arose in and out of the course of employment with Deluxe Video. Additionally, the Majority erroneously determined that the claimant did not prove that her injury was the major cause of her disability or need for treatment. For the reasons set out below, I must once again respectfully dissent from the Majority's Opinion.

The claimant has alleged that she developed a cumulative trauma, repetitive motion injury to her left wrist as a result of her job related activity. During the time the claimant contends that she sustained her injuries, she was employed by the respondent's video tape production company.

Her employment with the respondent required her to rapidly insert and replace video cartridges from recording machines and put the recorded tape back into

the cart from which the tape came. According to the claimant's testimony and that of her witnesses (including her immediate supervisor) her job duties frequently required her to make 4,000 to 5,000 separate hand motions per hour. Even the respondent did not contend that this type of activity is not hand-intensive.

The Majority found that the claimant did not offer objective medical evidence to support the existence of a compensable injury. Specifically, Majority found that the claimant did not complain of bilateral hand and wrist symptoms until eight months after she stopped working for the respondents. However, my review of the medical records and corroborating testimony indicates that this conclusion was incorrect. Additionally, the Majority erroneously concludes that the claimant's bilateral hand and wrist symptoms were not causally related to the claimant's employment with the respondents, noting that the claimant was not diagnosed with bilateral carpal tunnel until she had ceased working for the respondents for approximately eight months.

The parties stipulated that the claimant had suffered a compensable injury to her right wrist in 2002 in the form of a ganglion cyst. The claimant underwent surgery for this condition. Later, after having left the employ of the respondent, the claimant contended that she had developed carpal tunnel syndrome while she was working for them. The respondent controverted the claim based upon their position that the claimant never reported an injury to them nor did her medical records document any complaints of symptoms relating to carpal tunnel syndrome until after she had changed jobs. The Majority seems to suggest that if the claimant does have carpal tunnel syndrome it either developed spontaneously, was the result of her employment activities working as a dental hygienist, or was the result of some other, unknown, cause.

First, my review of the medical records indicates that such objective findings do exist. During the course of attempting to obtain treatment for her wrist problem, the claimant saw a number of physicians. One of them was Dr. David Rhodes, a Little Rock orthopedic surgeon. In a report dated June 7, 2004, Dr.

Rhodes noted that the claimant had been diagnosed with moderate to severe bilateral carpal tunnel syndrome. Dr. Rhodes indicates that surgical treatment might be necessary in this case and directed the claimant to undergo nerve conduction studies to determine the nature and extent of her wrist problems. In a second report dated June 17, 2004, Dr. Rhodes states: "Latesha has had her nerve conduction study that showed moderate carpal tunnel syndrome on the left and mild carpal tunnel syndrome on the right."

Dr. Rhodes' report documents an objective finding establishing that the claimant had carpal tunnel syndrome. In fact, Dr. Rhodes went on to perform a carpal tunnel release based upon the positive nerve conduction study findings. While it is true that a report from the neurologist performing the study was not included in the record, I believe that Dr. Rhodes' acknowledgment of the existence of the NCV studies satisfies the objective medical evidence required.

Second, I believe that the testimony provided by the claimant is sufficient to establish that her injury arose out of and in the course of her employment

with the respondent. As indicated above, the claimant performed duties that were clearly highly repetitive and hand-intensive and were without a doubt the type of strenuous hand activities which we have held in innumerable cases as the type of activities which can result in carpal tunnel syndrome.

I realize that at the time the medical records document the presence of carpal tunnel syndrome the claimant was working as a dental hygienist. The respondent asserts that this employment was, or could have been, the cause of the claimant's carpal tunnel syndrome. However, in February 2003 when the carpal tunnel syndrome was first diagnosed, the claimant had only been working at this job for a few weeks, and much of that time had been spent in training as opposed to doing actual work. When the claimant's brief employment as a dental hygienist and her actual duties in that job are compared to what she was doing when employed by the respondent, it is readily apparent that her second job could not have played a significant factor in developing carpal tunnel syndrome. Therefore, I find that the

claimant's injury was the major cause of her disability and need for treatment.

In conclusion, I believe that the medical records contain objective medical evidence establishing the claimant suffered from carpal tunnel syndrome. This evidence is in the form of the nerve conduction studies referred to by Dr. Rhodes which confirmed his prior diagnosis of carpal tunnel syndrome. Additionally, I find that the claimant's job duties with the respondent were very repetitive and hand-intensive and are the cause of the claimant's carpal tunnel syndrome. For that reason, I must respectfully dissent from the Majority's denial of this claim.

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PHILIP A. HOOD, Commissioner