

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F802382

LORI FLYNN, EMPLOYEE	CLAIMANT
RYAN'S FAMILY STEAK HOUSES, INC., EMPLOYER	RESPONDENT
ACE AMERICAN INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT

OPINION FILED MARCH 11, 2010

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

Claimant represented by the HONORABLE CARL F. "TREY" COOPER,
III, Attorney at Law, El Dorado, Arkansas.

Respondent represented by the HONORABLE BRIAN J. McNAMARA,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The claimant appeals an administrative law judge's
opinion filed August 10, 2009. The administrative law judge
found that the claimant did not prove she sustained a
compensable injury. After reviewing the entire record *de*
novo, the Full Commission reverses the administrative law
judge's opinion. The Full Commission finds that the
claimant proved she sustained a compensable injury to her

right leg. However, we find that the injury to the claimant's left leg was the result of an independent intervening cause and was not compensable.

I. HISTORY

The record indicates that Lori Ann Flynn, age 48, received psychiatric treatment beginning in approximately December 2004 for symptoms related to alcoholism, depression, and polysubstance dependence. The claimant testified on direct examination, "In June of '06, I relapsed, and I was incarcerated for hot checks and forgery. And I spent seven months at Union County Jail and seven months at Pine Bluff. And all of my probation, parole, drug tests, has been completed satisfactory with the courts."

The claimant's testimony indicated that she began working as a server for Ryan's Family Steakhouse in about December 2007. The parties stipulated that the claimant "sustained an injury involving her right leg on March 8, 2008." The claimant testified, "I took some dishes back to the dish area and washed my hands there at the little sink before you come out the outside, out-swinging door. And one of the rugs had crumpled up. And I caught my foot on it and fell....The pain was so excruciating, and like going into

shock....they left me lying on the floor for quite a while. And then they told me I had to get up off the floor....they managed to get me in a restaurant chair."

The record includes a Ryan's Customer Incident Report, completed by Manager Greg Miley on March 8, 2008. Greg Miley wrote that the Accident Time was 10:15 a.m. and that the "Customer" was the claimant, Lori Flynn. Mr. Miley described the accident: "Leg gave out and she fell." Mr. Miley further reported, "I came out of dishroom and Lori was laying on the floor by the hot bars, she said her leg gave out. She said she was hurting in the leg, but, did not want an ambulance. She wanted to go home." Mr. Miley wrote that the floor was "Clean and free of debri (sic)."

The claimant testified on direct examination:

Q. Right after you fell, did you make any statements about how you fell?

A. No, sir.

Q. Did you ever tell anyone that your leg gave out?

A. No, sir.

A co-worker, Penny LeBlanc, wrote a statement on March 8, 2008: "I walked into the dishroom Lori was at the edge of the hot bar coming from washing her hands. When I came out

of the dishroom to wash my hands Lori was laying on the floor with Patrick knelt beside her. I then called for Greg to come and help her."

The claimant testified that a friend transported her to the emergency room. Handwritten notes on an Emergency Nursing Record, dated March 8, 2008, indicated that the claimant "Fell" and landed on her right knee. An Emergency Physician Record indicated that the claimant had "tripped" at work.

A Diagnostic Imaging Report was done at Medical Center of South Arkansas on March 8, 2008:

Two views of the right hip are normal. No definite evidence of fracture or dislocation is seen. The radiographic technique is somewhat less than optimal for an unknown reason. Two views of the right leg reveal the tibia and fibula to appear intact. The leg appears intact. Three views of the right ankle reveal it appear normal without evidence of fracture, dislocation, or acute process. Two views of the right knee reveal a spiral fracture of the distal right femoral diaphyseal metaphyseal junction with the fracture line extending into the patellofemoral articulation. The distal fragment is rotated and has one diameter medial displacement and several centimeters proximal overriding.

CONCLUSION:

Spiral fracture of the distal right femoral diaphyseal metaphyseal junction with overriding and displacement. Otherwise intact right leg, ankle, and right hip.

Dr. C. Dwayne Daniels saw the claimant on March 8, 2008:

Ms. Lori Flynn is a 46-year-old white female who was working at Ryan's Restaurant today. She tripped and fell and sustained a injury to her right leg. She has a spiral fracture of the supracondylar region of the right femur. I felt she would benefit from retrograde intramedullary nailing.

PAST MEDICAL HISTORY:

1. Hypertension.
2. Chronic obstructive pulmonary disease.
3. Gastroesophageal reflux disease....

HABITS: The patient smokes cigarettes. She occasionally drinks alcohol. She was former IV drug user but she states she has been clean for ten years....

BONES, JOINTS, AND EXTREMITIES: Back, bilateral upper extremities, and bilateral lower extremities are grossly within normal limits except for the right lower extremity which shows an external rotation deformity....

Dr. Daniels' impression was "Spiral right supracondylar femur fracture. PLAN: Intramedullary nailing for retrograde technique. The patient understands the risks of surgery, accepts them, and wishes to proceed."

Dr. Daniels performed an "Intramedullary nailing of right femur fracture" on March 8, 2008. Dr. Daniels noted, "Lori Flynn is a 46-year-old white female who fell at work at Ryan's Restaurant in El Dorado." The pre- and post-

operative diagnosis was "Right femoral spiral supracondylar shaft fracture."

Dr. Larry Don Ezell wrote a Discharge Summary on March 10, 2008:

Ms. Flynn is a 46-year-old white female who was at work at Ryan's Restaurant when she slipped and fell on a rug that had become matted. She fell landing on the right femur and sustained a spiral fracture of the right femur. She was admitted for orthopaedic surgical repair....

X-ray of the hip status post surgery shows excellent alignment of the internal open reduction and internal fixation with an intramedullary nail....

She is to remain off work with medical excuse until further release by Dr. Daniels.

The claimant testified on direct examination:

Q. And when you went home on the 11th, did they give you any medication?

A. Oh, yes, sir.

Q. What did they give you?

A. Roxicet.

Q. And did they give you any instructions about that medication?

A. It was just marked when to take it, one or two tablets every four to six hours....

I had gotten home, and I live in a boarding house, so everybody was excited to see me home. And they helped me rearrange my room so, you know, the clutter would be out of the way, move the couch and the coffee table to give me more room. And I

was solely relying upon my left leg for all my body weight distribution....

Q. And then nine hours later what happened?

A. Nine hours later, everybody had left and went to their own rooms about 7:00, 8:00 o'clock. And I was exhausted, because this was a traumatic ordeal for me....And so I'd gotten my pajamas on, and I crawled up in my bed. And I remember sleeping facing the wall. And I was like, oh, darn, I need to go to the bathroom. So I went to roll over to my left, and when I did that, the other leg, the bones, you know, snapped, and went awkward. So -

Q. Could you feel it snap? Did you feel it snap?

A. Yes.

Q. Okay. Now, I think you testified earlier that you had had some alcohol that day you got released, is that right?

A. I had two beers.

Q. Over the course of -

A. Eight hours....I was just kind of sipping on them, you know. I mean I wasn't guzzling them or chugging them or anything. I was just sitting, you know, with the other housemates, and -

Q. And you were taking your pain medicine at the same time?

A. Yes....

Q. Did you know that it's advised that you shouldn't drink while you are on pain medicine?

A. Yes, sir.

Q. And were you intoxicated before you went to sleep?

A. I don't believe so, because two beers over a course of eight hours.

The claimant testified that she was transported back to the hospital. An Emergency Physician Record, dated March 11, 2008, indicated that the claimant had fallen at home and injured her left thigh. It was circled on the **SOCIAL HX** section of the Emergency Physician Record, "recent ETOH."

A Diagnostic Imaging Report on March 11, 2008 showed the following: "HISTORY: Possible fracture. Studies of the left femur reveal a spiral fracture through the proximal half of the left femur with mild angulation at the fracture site. This study is taken through a brace. CONCLUSION: Fracture, proximal left femur."

Dr. Stephen P. King saw the claimant on March 11, 2008:

This 46-year-old is admitted with a left hip fracture. This patient was just recently discharged on 03/10/2008 after having fallen on 03/08/2008 working at Ryan's, which is the place of her employment. She had a spiral fracture of the supracondylar region of the right femur. She had intramedullary nailing. This was done without problems. She does have a history of ethanol and IV drug use but apparently has been clean for 10 years. She was discharged in stable condition and then fell again, felt probably ethanol related and prescription drugs as well. She sustained a left hip fracture. She is being admitted for ortho consultation and repair....

SOCIAL HISTORY: Smokes six or so cigarettes a day. Drinks alcohol, a variable amount. Former IV drug user, apparently clean for a long time. Works at Ryan's....

BONE, JOINTS AND EXTREMITIES: Shows a left hip fracture with tenderness....

Dr. King's impression was "1. Left hip fracture. 2. Chronic obstructive pulmonary disease. 3. Gastroesophageal reflux disease and peptic disease."

Dr. Daniels consulted with the claimant on March 11, 2008:

Lori Flynn is a 42-year-old white female well known to me. On 03/08/2008, she sustained a torsional injury to her right leg while work at Ryan's Restaurant. She sustained a spiral fracture in the supracondylar and distal femoral shaft. She had intramedullary nailing of the femur by me on 03/08/2008 and did quite well. She was discharged to home yesterday. She apparently had a fall at her home and sustained a mid shaft fracture of the left femur at this time....She was offered intramedullary nailing for the left femur at this time....

SOCIAL HISTORY: The patient smokes cigarettes and occasionally drinks alcohol. She is a former IV drug user but states she has not had these drugs for at least ten years....

Dr. Daniels' impression was "Left femur fracture.

RECOMMENDATIONS: Retrograde intramedullary nailing of left femur as noted above."

The following List Patient Notes were entered with regard to the claimant on March 11, 2008: "Noted acute admit

of 46yo female who was just discharged yesterday s/p OIRF right femur. She was to go home at discharge with home health. Pt went home, took her Percocet with ETOH, fell and fx left femur...."

Dr. Daniels reported on March 11, 2008:

Lori Flynn is a 46-year-old white female well known to me. On 03/08/2008 (three days ago), she fell while working at Ryan's and fractured her right femur.

She had retrograde intramedullary nailing on that date and tolerated it well. She was discharged to home yesterday, 03/10/2008. She had been home about 12 hours. She fell at home because of relative debility in her right leg and, unfortunately, fractured her left femur as well. She was admitted and brought to the operating room for internal fixation of her femur on the left side....

Dr. Daniels performed a "Left intertrochanteric nailing, left femoral shaft fracture." The pre- and post-operative diagnosis was "Left femoral shaft fracture."

Dr. King discharged the claimant on March 14, 2008:

This pleasant female on 03/08/2008 had a fall at work, fracturing her right hip. She was discharged home and had a fall at home, sustaining a left hip fracture. She came back in and had the left hip repaired. We have had some difficulty getting a disposition on her due to approval from Labor and Industries of the second injury. In any event, the patient is stable for discharge, and we are trying to get her discharged to rehab, and I think we are going to be able to accomplish this. I will not discharge her on any pain medications at the

present time due to concerns about falling. She likely does need some bisphosphonates and/or estrogen to develop some bone strengthening....

The discharge diagnoses on March 14, 2008 were "1. Fractured left hip. 2. Status post fractured right hip on 03/08/2008 from fall at work. 3. Chronic obstructive pulmonary disease. 4. Hypertension. 5. Peptic disease. 6. Likely osteoporosis."

Dr. Daniels noted on April 9, 2008, "Lori Flynn comes in for followup on her bilateral femoral nails. The right one is a workman's compensation injury. It was nailed on 03/08/2008. The left was sustained when she fell the day immediately after discharge from the hospital. The left is a supracondylar. The right is a spiral shaft fracture. Apparently when she fell and fractured the left side, she changed the position the nail on the right driving it distally. The distal interlocking screws are displaced, and the tip of the nail is prominent in the knee....She is going to keep her appointment on the 25th. If she is not yet healed and continues to have patellofemoral changes on the right side, then we will have to do an exchange nailing."

Dr. Daniels noted on April 25, 2008, "We are going to plan to do an exchange nailing on May 6, 2008." Dr. Daniels

performed a "Revision of intramedullary nail of right femur fracture" on May 6, 2008. The pre- and post-operative diagnosis was "Intraarticular hardware from previous right femoral nailing."

The claimant's testimony indicated that she began working for another employer on October 13, 2008.

Dr. Daniels corresponded with the claimant's attorney on October 31, 2008:

I received your letter dated October 23, 2008 regarding Lori Flynn. She had a work-related injury of her right femur which was treated with intramedullary nailing by me on March 08, 2008. She was discharged to home on March 10, 2008, but unfortunately fell in the middle of the night. She had been taking p.o. pain medicine. She was debilitated from her right leg and I can say with greater than 51% degree of medical certainty that her second fall was caused by the sequela and debility caused by her first femur fracture and I think therefore that her left femur fracture is related to her work-related injury.

The parties stipulated that no benefits were paid on the claim. A pre-hearing order was filed on December 30, 2008. The claimant contended, "1. On March 8, 2008, the claimant sustained compensable injuries to her right and left femur arising out of and in the course of employment as a waitress at Ryan's Family Steakhouse in El Dorado, Arkansas. However, if the left leg fracture occurred on

March 11, 2008, the left leg fracture is a compensable consequence of the claimant's right leg fracture. 2. The claimant has been temporarily totally disabled from March 8, 2008 to a date to be determined."

The respondents contended, "1. This claim is controverted in its entirety. 2. The claimant's injuries do not qualify as compensable under the Arkansas Act. 3. The injury to the claimant's right leg on March 8, 2008 resulted from an idiopathic fall. 4. If the left leg injury occurred at the same time, the left leg injury was idiopathic also. 5. If the left leg injury occurred on March 11, 2008, the left leg injury was caused by an independent event and was substantially occasioned by alcohol and drugs used in contravention of medical advice."

The parties agreed to litigate the following issues:

Claimant:

1. Compensability of right leg and left leg injuries.
2. Temporary total disability.
3. The claimant reserves all other issues for another hearing.

Respondents:

1. Compensability of the claimant's right leg fracture.
2. Compensability of the claimant's subsequent left leg fracture.
3. Potentially different issues are involved depending on whether the left leg injury occurred

on March 8, 2008, or on March 11, 2008 (see contentions).

An administrative law judge filed an opinion on August 10, 2009. The administrative law judge found that the claimant did not prove she sustained a compensable injury. The administrative law judge therefore denied the claim. The claimant appeals to the Full Commission.

II. ADJUDICATION

A. Compensability

Act 796 of 1993, as codified at Ark. Code Ann. §11-9-102(4) (Repl. 2002), provides:

(A) "Compensable injury" means:

(i) An accidental injury causing internal or external physical harm to the body ... arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

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 must prove by a preponderance of the evidence that she sustained a compensable injury. Ark. Code

Ann. §11-9-102(4)(E)(i). Preponderance of the evidence means evidence of greater convincing force and implies an overbalancing in weight. *Barre v. Hoffman*, 2009 Ark. 373, ___ S.W.3d ___.

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). 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 of injury or aggravate the injury. *Id.*

An administrative law judge found in the present matter, "6. The preponderance of the evidence establishes that the claimant sustained a non-compensable idiopathic injury at work on March 8, 2008." The Full Commission

reverses this finding. The Full Commission finds that the claimant proved she sustained a compensable injury to her right leg in the form of a spiral right femur fracture on March 8, 2008. The parties stipulated that the claimant "sustained an injury involving her right leg on March 8, 2008." The claimant testified, "I took some dishes back to the dish area and washed my hands right there at the little sink before you come out the outside, out-swinging door. And one of the rugs had crumpled up. And I caught my foot on it and fell....The pain was excruciating, and like going into shock."

The claimant's manager, Greg Miley, completed a "Customer Incident Report" on March 8, 2008 and described the accident: "Leg gave out and she fell." Mr. Miley testified that he did not witness the accident but saw the claimant immediately after she fell: "I see her laying there, and I ask, 'Are you all right?' She says, "Well, my leg gave out." The record before the Commission does not corroborate Greg Miley's testimony. The record instead corroborates the claimant's testimony. The initial Emergency Nursing Record, dated March 8, 2008, indicated that the claimant tripped at work and fell. Dr. Daniels

noted on March 8, 2008 that the claimant "tripped and fell" at Ryan's. Dr. Ezell reported on March 10, 2008 that the claimant "slipped and fell on a rug that had become matted." There were no medical reports corroborating Greg Miley's testimony that the claimant fell as a result of her right leg "giving out." There was no other evidence of record corroborating Mr. Miley's testimony in that regard. Nor does the record support the respondents' assertion on appeal that, on her way to the emergency room following her accidental injury, the claimant had "enough time to reflect on her story and make sure that her account of the injury would result in compensation."

The record before the Commission does not show that the claimant sustained an idiopathic injury when she tripped and fell at work on March 8, 2008. There is no evidence before us supporting a conclusion that the claimant was predisposed to suffering a bone fracture in her right leg. A Diagnostic Imaging Report was done on March 8, 2008 after the claimant tripped and fell. No abnormalities were shown in the claimant's right hip, tibia or fibula, right ankle, or right knee. The conclusion from the Imaging Report was "Spiral fracture of the distal right femoral diaphyseal metaphyseal

junction with overriding and displacement. Otherwise intact right leg, ankle, and right hip." In *Swaim v. Wal-Mart Assoc., Inc.*, 91 Ark. App. 120, 208 S.W.3d 837 (2005), the Court of Appeals reversed the Commission's finding that an employee's right-foot fracture was idiopathic and non-compensable. The Court found no evidence to support a conclusion that Swaim's diabetic condition predisposed him to bone fractures. In the instant matter, there is no evidence of record demonstrating that the claimant suffered from a condition which pre-disposed her to a spiral fracture of the right femur. The evidence before the Commission does not support a finding that the instant claimant's right leg "gave out" as the result of an idiopathic cause.

As the Court of Appeals determined in *Swaim, supra*, the Full Commission finds in the present matter that the claimant's spiral fracture to her right femur was not unexplained, because the claimant's corroborated testimony fully explained the circumstances surrounding the claimant's trip and fall at work on March 8, 2008. The Full Commission finds that the claimant proved by a preponderance of the evidence that she sustained a compensable injury on March 8, 2008. The claimant proved that she sustained an accidental

injury causing physical harm to her right leg in the form of a spiral fracture to the right femur. The accidental injury arose out of and in the course of the claimant's employment, required medical services, and resulted in disability. The injury was caused by a specific incident, identifiable by time and place of occurrence on March 8, 2008. The claimant established a compensable injury by medical evidence supported by objective findings, namely the "Spiral right supracondylar femur fracture" as shown by diagnostic imaging and reported by Dr. Daniels.

Based on the record, however, the Full Commission finds that the claimant did not prove she sustained a compensable injury to her left leg or femur. When the primary injury is shown to have arisen out of and in the course of the employment, the employer is responsible for any natural consequence that flows from that injury, and the basic test is whether there is a causal connection between the injury and the consequences of such. *K II Constr. Co. v. Crabtree*, 78 Ark. App. 222, 79 S.W.3d 414 (2002), citing *Wackenhut Corp. v. Jones*, 73 Ark. App. 158, 40 S.W.3d 333 (2001). A nonwork-related independent intervening cause does not require negligence or recklessness, but if the claimant is

engaged in unreasonable conduct, the result may be an independent intervening cause. *Davis v. Old Dominion Freight Line, Inc.*, 341 Ark. 751, 20 S.W.3d 326 (2000); see Ark. Code Ann. §11-9-102(4)(F)(iii)(Repl. 2002).

In the present matter, the Full Commission has found that the claimant proved she sustained a compensable injury to her right leg on March 8, 2008. Dr. Daniels performed an "Intramedullary nailing of right femur fracture" on March 8, 2008. The claimant was discharged from the hospital on or about March 10, 2008. The claimant testified that she was prescribed the medication Roxicet and that she went home on March 11, 2008. The claimant testified that she drank "two beers over a course of eight hours" on March 11, 2008. The claimant testified that she rolled over in her bed and felt a "snap" in her left leg. The March 11, 2008 Emergency Physician Record, however, indicated that the claimant had fallen and had injured her left thigh. The record does not corroborate the claimant's testimony that she felt a "snap" in her left leg after rolling over in bed. The Emergency Physician Record also reported "recent ETOH." "ETOH" is of course an abbreviation or acronym for "alcohol," or "ethanol." *The American Heritage Abbreviations Dictionary,*

Third Edition (2005). Diagnostic imaging on March 11, 2008 revealed a spiral fracture in the claimant's left femur. Dr. Daniels performed surgery in the form of a "Left intertrochanteric nailing" on March 11, 2008.

The evidence in the present matter demonstrates that the claimant was engaged in unreasonable conduct on March 11, 2008, and that her injury at home on that date was the result of an independent intervening cause. The initial Emergency Physician Record on March 11, 2008 indicated that the claimant had fallen at home and that "recent ETOH" was part of the circumstance of the claimant's fall. Dr. King reported on March 11, 2008 that the claimant's fall was "felt probably ethanol related and prescription drugs as well." Dr. Daniels noted on March 11, 2008 that the claimant had fallen at home; Dr. Daniels did not corroborate the claimant's testimony that the claimant felt a snap or break as the result of rolling over in bed. Dr. Daniels did note that the claimant "occasionally drinks alcohol." Finally, the List Patient Notes of record indicated that the claimant went home on March 11, 2008, "took her Percocet with ETOH, fell and fx left femur."

The Full Commission recognizes Dr. Daniels' October 31, 2008 correspondence in which he opined, "She was debilitated from her right leg and I can say with greater than 51% degree of medical certainty that her second fall was caused by the sequela and debility caused by her first femur fracture and I think therefore that her left femur fracture is related to her work-related injury." It is within the Commission's province to weigh all of 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 Full Commission must assign minimal weight to Dr. Daniels' opinion that the claimant's left femur fracture was related to her compensable right leg injury. The probative evidence before us demonstrates that the claimant's fall on March 11, 2008 was caused by a mixture of alcohol and prescription medication. The claimant's conduct on March 11, 2008 was not reasonable under the circumstances. Therefore, the claimant's injury on March 11, 2008 was the result of a nonwork-related independent intervening cause. The claimant did not prove that she sustained a compensable injury to her left leg or femur.

B. Temporary Disability

An employee who sustains a scheduled compensable injury shall receive temporary disability benefits during the healing period or until the employee returns to work, whichever occurs first. Ark. Code Ann. §11-9-521(a) (Repl. 2002); *Wheeler Constr. Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W.3d (822). 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). Whether 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 Full Commission has determined that the claimant proved she sustained a compensable injury to her right leg on March 8, 2008. The claimant underwent surgery to her right femur and did not return to work for the respondent-employer after March 8, 2008. The claimant sustained a non-compensable injury to her left leg as the result of an independent intervening cause on March 11, 2008. Dr. Daniels, the treating surgeon,

continued to treat the claimant and did not expressly state that the injury to the claimant's left leg extended the duration of the healing period for the claimant's compensable right leg injury. The claimant testified that she began working for another employer on October 13, 2008. The evidence currently before the Commission does not demonstrate that the healing period for the claimant's compensable right femur injury ended before the claimant returned to work on October 13, 2008. The claimant therefore proved that she was entitled to temporary total disability benefits from March 8, 2008 until October 13, 2008.

Based on our *de novo* review of the entire record, the Full Commission reverses the administrative law judge's opinion. The Full Commission finds that the claimant proved she sustained a compensable injury to her right leg on March 8, 2008. The subsequent injury to the claimant's left leg was the result of an independent intervening cause and was not compensable. The claimant correctly notes on appeal, "The issues to be litigated and resolved at the hearings were limited to compensability of the right and left leg injuries and temporary total disability." The Full

Commission therefore has not adjudicated the claimant's entitlement to reasonably necessary medical treatment pursuant to Ark. Code Ann. §11-9-508(a); that issue is reserved. We find that the claimant proved she was entitled to temporary total disability benefits from March 8, 2008 until October 13, 2008. The claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. §11-9-715(a) (Repl. 2002). For prevailing in part on appeal to the Full Commission, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.