

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F607472

GARY BROWN,
EMPLOYEE

CLAIMANT

SIMMONS PREPARED FOODS, INC.,
EMPLOYER

RESPONDENT

S. B. HOWARD & COMPANY,
INSURANCE CARRIER

RESPONDENT

OPINION FILED OCTOBER 14, 2011

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

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

Respondents represented by the HONORABLE TOD C. BASSETT,
Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Respondents appeal and claimant cross-appeals an
opinion and order of the Administrative Law Judge filed
June 29, 2011. In said order, the Administrative Law
Judge made the following findings of fact and
conclusions of law:

1. The stipulations agreed to by the parties at
the pre-hearing conference conducted on April
13, 2011, and contained in a pre-hearing order
filed that same date, are hereby accepted as
fact.
2. Claimant has met his burden of proving by a
preponderance of the evidence that he is

entitled to medical treatment for his left knee. This includes surgery performed by Dr. Arnold on January 28, 2011.

3. Claimant has failed to prove by a preponderance of the evidence that his impotency is causally related to the injury of April 23, 2006. Therefore, he is not entitled to medical treatment for that condition.

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 made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the June 29, 2011 decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002).

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

IT IS SO ORDERED.

A. WATSON BELL, Chairman

Commissioner McKinney concurs in part and dissents in part.

CONCURRING DISSENTING OPINION

I respectfully concur in part and dissent in part from the majority's opinion. Specifically, I concur in the majority's finding that the claimant failed to prove by a preponderance of the evidence that his impotency is causally related to his injury on April 23, 2006. However, I must respectfully dissent from the majority's finding that the claimant has proven by a preponderance of the evidence that he is entitled to

medical treatment for his left knee, including the surgery performed by Dr. Arnold on January 28, 2011. In my opinion, the claimant has failed to meet his burden of proof.

The claimant's left knee problems, in my opinion, are not causally related to his injury in April 2006. The evidence demonstrates that the claimant did not complain of knee problems with his left knee until 2010, four years after the incident. The June 21, 2006 report of Dr. Holder noted that the claimant complained of bilateral knee pain. However, the exam showed no left knee issues and the only notes were regarding the claimant's right knee pain. Simply put, I cannot find that there is a causal connection between the incident in April 6, 2006, and the claimant's current left knee problems. Therefore, I must respectfully dissent from an award of benefits.

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. After a de novo review of the record, I agree with the majority that the claimant is entitled to medical treatment for his left knee, including the surgery performed on January 28, 2011, and I specifically concur in this finding. However, as I would also award benefits for impotency, I must respectfully dissent on this issue.

The claimant testified that he began having problems with impotency two weeks after the electrocution and fall at work. The claimant was seen at the Southwest Neurological Institute on July 26, 2006, after a referral from Dr. Joe Paul Alberty, because of weakness in his entire body. In that note it is stated, "In addition, he has become impotent, which he had never had before. Because of the numbness and weakness I was asked to see him." Dr. William Griggs opined in regard to the claimant's impotency, "I believe he needs to see a urologist because of his impotence." "This man clearly has functional finding in addition to the mononeuropathy multiplex probably secondary to electrical shock." Dr. Griggs referred the claimant to Dr. John Lange on August 24, 1006. In a letter to Dr.

Griggs he opined, "He has an interesting injury of electrocution which antedated his erectile impotence. Certainly he could have developed some neuropathy leading to this problem." Dr. Michael Moore of Neurological Associates saw the claimant on December 12, 2007, and he opined, "The type of injury that he had is consistent with his symptom." "Patients with electrical injuries often have symptoms that are not possible to document with the available testing that we have." It is clear that all three of these physicians found that there are neurological problems related to his work injury, and two state that impotency is a result of neurological problems caused by electrocution. It was found in Clark v. Ottenheimer, 229 Ark. 383, 314 S.W.2d 497 (1958):

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 refusal to make an award.

Here, as was found in Clark, the claimant was fine and not experiencing any symptoms of impotency before the injury; but, after the work-related

electrocution, he began having those symptoms. His physicians have linked the neurologic injuries to the work electrocution, and the impotency is an injury related to the neurologic problems. I find that the medical evidence of record supports the claim for benefits related to impotency.

For the aforementioned reasons, I respectfully concur, in part, and dissent, in part, from the majority opinion.

PHILIP A. HOOD, Commissioner