

Cite as 2009 Ark. App. 730

ARKANSAS COURT OF APPEALSDIVISION III
No. CA 08-1443

STEVEN W. LAMB

APPELLANT

V.

NORAC COMPANY, INC and TWIN
CITY FIRE INSURANCE COMPANY
APPELLEES**Opinion Delivered** November 4, 2009APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NOS. F513215 & F602788]

AFFIRMED

M. MICHAEL KINARD, Judge

Appellant, Steven W. Lamb, appeals from a decision of the Arkansas Workers' Compensation Commission finding that he failed to prove that he sustained a compensable injury on or about January 5, 2006, and denying him benefits for said alleged injury. We affirm the decision of the Commission.

Appellant sustained a compensable back injury in September 2004 while employed by Norac. The injury was accepted as compensable and all due benefits were paid. As part of his treatment for the 2004 injury, appellant underwent an MRI of his cervical spine on July 22, 2005. According to the radiology report, the MRI showed a small disc protrusion at C5-6 and a diffuse disc osteophyte complex at C6-7. Appellant was transferred to a different job until January 2, 2006, when he was returned to his previous position. On January 5, 2006, appellant reported that he sustained an injury. The injury was initially

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accepted as compensable, and appellant was sent to Dr. Brent Sprinkle for treatment. Dr. Sprinkle performed an EMG study to check for evidence of a pinched nerve or radiculopathy, and the results were negative. Dr. Sprinkle did not order an MRI. Appellant was terminated on January 9, 2006, following an argument with his supervisor and other members of management. Appellees continued to pay for medical treatment until March 2006, when appellant was released by Dr. Sprinkle with no impairment.

Appellant requested and received a change of physician to Dr. Thomas Hart. Dr. Hart ordered an MRI, which was performed on August 7, 2006. In a report dated August 25, 2006, Dr. Hart states that the MRI shows a moderate protrusion/small herniation at T11-12. According to Dr. Hart, the MRI also shows a moderate disc protrusion at L4-5 and a small disc bulge at L5-S1. With regard to the cervical spine, Dr. Hart states that the MRI shows a cervical disc protrusion osteophyte complex at C4-5, which was “more impressive at the 5-6 level.” Dr. Hart referred appellant to a neurosurgeon, Dr. J. Michael Calhoun. In a report dated September 8, 2006, Dr. Calhoun states that the August 7, 2006 MRI shows a central disc protrusion at C5-6 and a disc protrusion at C6-7 with compromise of the left C7 nerve root. Both Dr. Hart and Dr. Calhoun recommended surgery for appellant.

Appellant filed a claim with the Commission for additional medical and temporary-total disability (TTD) benefits. At the hearing before the administrative law judge (ALJ), appellant testified that, on January 5, 2006, he was helping another employee, Timothy Shannon Bundren, load a pallet with drums when he felt his “back pull real bad.” Appellant

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testified that the unloading required him to unload the drums from a position that was over his head. He stated that “there was something a lot different going on in my neck and back.” Appellant did not tell Bundren about the injury, but he did report it to the company’s environmental health and safety coordinator, Jeff Wages.

Bundren testified that he saw appellant lift a barrel up to his head or neck, but he was not sure whether the barrel was full or empty. He stated that he went on break, came back, and was told that appellant had gone to Jeff Wages’s office. He was unsure whether appellant was hurting before he went on break. Terence Sikes, another coworker of appellant, testified that he saw appellant lift a drum, but he did not know if the drum was full or empty. He was in another area of the plant at the time of the injury, and did not know that appellant had injured himself until afterwards. Sikes did not see appellant express or give any indication that he was injured.

Following the hearing, the ALJ issued an opinion finding that appellant failed to establish a compensable injury in connection with the alleged incident on January 5, 2006. The ALJ noted that the August 7, 2006 MRI and the other diagnostic tests performed after January 5, 2006, did not result in any objective findings of new injury other than degenerative changes. The Commission affirmed and adopted the decision of the ALJ, with one commissioner dissenting. This appeal followed.

In reviewing a decision of the Arkansas Workers’ Compensation Commission, this court views the evidence and all reasonable inferences deducible therefrom in the light most

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favorable to the Commission's findings and affirms those findings if they are supported by substantial evidence, which is evidence a reasonable person might accept as adequate to support a conclusion. *Parker v. Comcast Cable Corp.*, 100 Ark. App. 400, 269 S.W.3d 391 (2007). This court will not reverse the Commission's decision unless it is convinced that fair-minded people with the same facts before them could not have reached the same conclusions reached by the Commission. *Smith v. Country Market/Southeast Foods*, 73 Ark. App. 333, 44 S.W.3d 737 (2001). In a case such as this one, where the Commission denies benefits because a claimant failed to meet his or her burden of proof, we affirm if the Commission's decision displays a substantial basis for the denial of relief. *Crudup v. Regal Ware, Inc.*, 341 Ark. 804, 20 S.W.3d 900 (2000).

The ALJ found that appellant's version of the injury did not match up with that of the other witnesses. Although the appellant raises valid points regarding some apparent inconsistencies and misinterpretations in the ALJ's discussion of the testimonial evidence, the decision to deny benefits is supported by the medical evidence. The record contains competing opinions between physicians, and the Commission chose to credit those which indicated that there were no objective findings of injury to support a finding that appellant sustained a compensable injury on or about January 5, 2006. Dr. Sprinkle testified in his deposition that he tested appellant for nerve root compression following the January 5, 2006 incident and the results of the tests were negative. Dr. Sprinkle also testified that the complaints of appellant as reflected in Dr. Hart's reports are different than the complaints

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appellant had when Dr. Sprinkle was treating him. In addition, the radiology reports from the two MRIs indicate that there are no new objective findings on the August 7, 2006 MRI.

Although appellant points to Dr. Calhoun's opinion that the August 7, 2006 MRI shows nerve root compression that is not present on the earlier MRI, it is within the province of the Commission to weigh conflicting evidence, use its expertise to determine the soundness of medical evidence, and translate it into findings of fact. *Hamilton v. Gregory Trucking*, 90 Ark. App. 248, 205 S.W.3d 181 (2005). The Commission weighed the evidence as it is required to do and gave greater weight to the opinions of Dr. Sprinkle and the radiologists who interpreted the MRIs. Therefore, the decision of the Commission is affirmed.

Affirmed.

ROBBINS and HENRY, JJ., agree.