IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

BILLY WILLIAMS, *Petitioner*,

v.

THE INDUSTRIAL COMMISSION OF ARIZONA, *Respondent*,

ACE PARKING MANAGEMENT, INC., *Respondent Employer*,

COPPERPOINT WESTERN INSURANCE COMPANY, *Respondent Carrier*.

No. 1 CA-IC 16-0045
FILED 7-6-2017

Special Action - Industrial Commission
ICA Claim No. 20150-140387
Carrier Claim No. 13W02157
The Honorable C. Andrew Campbell, Administrative Law Judge

AWARD AFFIRMED

COUNSEL

Billy Williams, Tempe
Petitioner

Industrial Commission of Arizona, Phoenix
By Jason M. Porter
Counsel for Respondent ICA

CopperPoint Mutual Insurance Company, Phoenix
By Ronald C. Willis
Counsel for Respondent Employer and Respondent Carrier

MEMORANDUM DECISION

Presiding Judge Kent E. Cattani delivered the decision of the Court, in which Judge Jon W. Thompson and Judge Paul J. McMurdie joined.

C A T T A N I, Judge:

¶1 This is a special action review of an Industrial Commission of Arizona award and decision upon review denying Billy Williams's workers' compensation claim. Williams argues that the administrative law judge ("ALJ") erred by ruling that his claim for workers' compensation was barred by the one-year statute of limitations. For reasons that follow, we affirm the award.

FACTS AND PROCEDURAL BACKGROUND

¶2 Williams was employed by Ace Parking Management, Inc. as a parking-lot cashier at Phoenix Sky Harbor Airport. As part of his responsibilities, Williams was required to open and close a door to interact with customers.

¶3 On March 12, 2013, Williams told his primary care physician, Dr. Rachel Kasukonis Sy, that he was experiencing pain in his hands. Williams had previously mentioned pain in one of his hands to Dr. Sy in November 2012. Dr. Sy performed a limited exam of Williams's hands, and found that he had tenderness between his thumb and forefinger. Williams mentioned that he thought the pain may have stemmed from the repetitive motion required by his work. Dr. Sy recommended a conservative course of treatment involving range-of-motion exercises.

¶4 Williams again talked to Dr. Sy about hand pain in August 2013. At that point, Dr. Sy suspected arthritis, and prescribed Williams a local anesthetic and an anti-inflammatory gel.

¶5 Due to Williams's continued and worsening pain, in May 2014, Dr. Sy recommended that Williams reduce his work hours and wear a brace while working. Williams began to work two days per week instead of three. Dr. Sy and Williams continued to discuss his hand pain throughout 2014, and in June 2015, Dr. Sy referred Williams to a hand orthopedist. The hand orthopedist diagnosed Williams with left and right wrist osteoarthritis.

¶6 In January 2015, Williams filed a workers' compensation claim for his hand and wrist pain.[1] The carrier denied the claim in February 2015, and Williams requested a hearing.

¶7 The ALJ held three days of hearings on the question of whether Williams had suffered a compensable injury. Williams and Dr. Sy both testified, as did Dr. Paul Guidera, a board-certified specialist in hand surgery. Donna York, a human resources manager at Ace Parking, also testified.

¶8 The ALJ found that Williams's claim accrued no later than March 12, 2013, and that his claim was thus barred by the applicable one-year limitations period. *See* Ariz. Rev. Stat. ("A.R.S.") § 23-1061(A).[2] The ALJ confirmed this decision on administrative review. Williams timely brought this statutory special action, and we have jurisdiction under A.R.S. §§ 12-120.21(A)(2), 23-951(A), and Arizona Rule of Procedure for Special Actions 10.

DISCUSSION

¶9 Williams argues the award was not supported by the evidence presented at the hearing. We defer to the ALJ's factual findings, but review any legal conclusions de novo. *Young v. Indus. Comm'n*, 204 Ariz. 267, 270, ¶ 14 (App. 2003). We view the evidence in the light most favorable to upholding the award. *Lovitch v. Indus. Comm'n*, 202 Ariz. 102, 105, ¶ 16 (App. 2002).

¶10 Under A.R.S. § 23-1061(A), a claim for workers' compensation must be filed "within one year after the injury occurred or the right thereto accrued." The claim accrues "when the injury becomes manifest or when

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[1] The claim indicated that the date of injury was November 22, 2013. Williams testified that this was not the correct date, and that he was unsure why he had selected that date on his claim.

[2] Absent material revisions after the relevant date, we cite a statute's current version.

the claimant knows or in the exercise of reasonable diligence should know that the claimant has sustained a compensable injury." *Id.*

¶11 The accrual date is a question of fact for the ALJ, and we will not disturb the ALJ's finding unless there is no evidence in the record to support it. *Mead v. Am. Smelting & Ref. Co.*, 1 Ariz. App. 73, 77 (App. 1965). The ALJ must determine "when the injured employee, as a reasonable person, should [have] recognize[d] 1) the nature of the injury, 2) its seriousness, and 3) its causal relationship to the employment." *Saylor v. Indus. Comm'n*, 171 Ariz. 471, 473 (App. 1992). "These three factors are not necessarily of even weight but must be considered together in determining when the injury became manifest or when the claimant knew or should have known that he sustained a compensable injury." *Pac. Fruit Express v. Indus. Comm'n*, 153 Ariz. 210, 214 (1987).

¶12 The record supports the ALJ's finding that Williams understood the nature of the injury and its causal relationship to his employment by March 12, 2013. According to Williams's own testimony, he believed that his hand pain may have been related to his work activities when he met with Dr. Sy on that date. Dr. Sy testified that her examination during the March 12 visit revealed symptoms that were potentially consistent with a repetitive motion injury. And her notes from the visit indicate that "[Williams] continues to have hand and shoulder pain related to repetitive motion at his job" and that "[Williams] is considering discussing his musculoskeletal issues with his work."[3]

¶13 Furthermore, although the record would likely support either conclusion on this factor, sufficient evidence suggests that Williams understood the seriousness of the injury at the time of the March 12 visit. A "slight or trivial" injury is not compensable, and does not trigger the statute of limitations. *Id.* at 213–14. The injury must consist of more than temporary discomfort; there must be some basis for the employee to suspect that a compensable event has occurred. *M.M. Sundt Constr. Co. v. Indus. Comm'n*, 124 Ariz. 94, 96 (1979) (holding that an employee who experienced temporary ringing in his ears for less than an hour after each work day had no basis to suspect that the ringing would later become permanent, in part

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[3] Dr. Sy noted that "[a]t this point [the injury] is not Workmans Comp." It is unclear whether she intended to indicate that Williams had not yet filed a claim, or that the injury was not yet compensable. Nevertheless, even if she intended the latter, other evidence in the record, including testimony from both Williams and Dr. Sy about the visit, supports the ALJ's determination that the injury accrued by March 12, 2013.

because "[h]e required no medical attention" before the permanent ringing began).

¶14 There is evidence that Williams's hand pain had been persisting for several months by the time of the March 12 visit. Williams had been treated for hand pain as early as November 2012, and Dr. Sy's notes list "bilateral shoulder and hand pain x 3 months" as one of the reasons for the March 12 appointment. And the March 12 visit resulted in Dr. Sy recommending that Williams perform range-of-motion exercises to alleviate his pain. This evidence all suggests that Williams should have suspected that he had suffered more than a "slight or trivial" injury by March 12, 2013. Thus, the ALJ's assessment of the seriousness of Williams's injury as of March 2013 was not an abuse of discretion. *See Pac. Fruit Express*, 153 Ariz. at 214. The ALJ did not err by determining that Williams's claim had accrued by March 12, 2013, and that his claim filed on January 12, 2015 was thus barred under A.R.S. § 23-1061(A).

CONCLUSION

¶15 The award is affirmed.

AMY M. WOOD • Clerk of the Court
FILED: AA