

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

ROGELIA F. ZEPEDA,
Petitioner Employee,

v.

THE INDUSTRIAL COMMISSION OF ARIZONA,
Respondent,

TUCSON STARR PASS,
Respondent Employer,

MCS-DALLAS,
Respondent Insurer.

No. 2 CA-IC 2015-0009
Filed April 20, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);
Ariz. R. P. Spec. Actions 10(k).

Special Action - Industrial Commission
ICA Claim No. 20142180020
Insurer No. 450385
Gary M. Israel, Administrative Law Judge

AWARD AFFIRMED

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COUNSEL

Rogelia F. Zepeda, Tucson
In Propria Persona

The Industrial Commission of Arizona, Phoenix
By Andrew F. Wade
Counsel for Respondent

Zingg Law Office, PLLC, Tucson
By Jo Fox Zingg
Counsel for Respondents Employer and Insurer

MEMORANDUM DECISION

Judge Staring authored the decision of the Court, in which Presiding Judge Howard and Judge Espinosa concurred.

STARING, Judge:

¶1 Petitioner Rogelia Felix Zepeda challenges the Industrial Commission administrative law judge's (ALJ) award denying her claim for workers' compensation benefits. We affirm.

Factual and Procedural Background

¶2 "We view the evidence in the light most favorable to affirming the Industrial Commission's findings and award."¹ *City of Tucson v. Indus. Comm'n*, 236 Ariz. 52, ¶ 2, 335 P.3d 1131, 1133 (App.

¹Zepeda's opening brief is in the form of a letter to this court, and does not contain a statement of facts, much less any citation to the record as required by Ariz. R. Civ. App. P. 13(a)(5). Accordingly we disregard the facts set forth in her opening brief, and instead rely on the Industrial Commission's statement of facts and our own review of the record. See *State Farm Mut. Auto. Ins. Co. v. Arrington*, 192 Ariz. 255, n.1, 963 P.2d 334, 336 n.1 (App. 1998).

2014). Zepeda was employed at the Starr Pass Marriott in July 2014, when she cut her left index finger. Her finger was bandaged and she returned to work. The next day, while preparing food, Zepeda's finger began to bleed and she placed it under running water in a restroom. Zepeda tried to remove the bandages on her finger and allegedly felt "an electrical current" that went from her finger to her brain, causing her to faint. She awoke on the restroom floor with a coworker at her side. An ambulance transported her to the hospital.

¶3 Zepeda filed a claim for workers' compensation benefits for the head injury she sustained when she fell. Her claim was denied, and she filed a request for hearing before the Industrial Commission. A hearing was held, and the ALJ also denied her claim. Zepeda failed to produce any medical evidence to support the assertion that an electric shock caused her fall. Thus, the ALJ concluded Zepeda "did not establish by a preponderance of credible evidence a causal relationship between her employment and her fall."

¶4 Zepeda requested review, but the ALJ affirmed his previous decision. This statutory special action followed. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(2), 23-951(a), and Rule 10, Ariz. R. P. Spec. Actions.

Discussion

¶5 Zepeda has failed to comply with the rules of appellate procedure. Her opening brief lacks any statement of the case, facts, or the issues. *See* Ariz. R. Civ. App. P. 13(a)(4)(6); Ariz. R. P. Spec. Actions 10(k) (Arizona Rules of Civil Appellate Procedure apply to special action review of industrial commission awards). Furthermore, an opening brief must contain an argument with "[a]ppellant's contentions concerning each issue presented for review, with supporting reasons for each contention, and with citations of legal authorities and appropriate references to the portions of the record on which appellant relies." Ariz. R. Civ. App. P. 13(a)(7)(A). To the extent Zepeda makes any argument in her opening brief, it is limited to her first paragraph. She contends she is "right about everything" she has "said about [her] case," that the accident was caused by "loss of blood from [her] slit phalanges

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in [her] left index finger,” and an “electric shock . . . was the cause of [her] blackout fall.” Zepeda’s argument, however, lacks any legal analysis or authority. *See id.* Nor does she allege any error on the part of the ALJ or that the ALJ abused his discretion in reaching his decision. *See* A.R.S. § 23-951(B) (appellate review of Industrial Commission award limited to “determining whether or not the commission acted without or in excess of its power” and whether the findings of fact supported the ALJ’s decision upon review).

¶6 Although proceeding in propria persona, Zepeda is “held to the same familiarity with required procedures and the same notice of statutes and local rules as would be attributed to a qualified member of the bar,” and she “is entitled to no more consideration than if [she] had been represented by counsel.” *Copper State Bank v. Saggio*, 139 Ariz. 438, 441, 679 P.3d 84, 87 (App. 1983). Accordingly, Zepeda’s non-compliance with the rules supports finding her claims waived.² *See Polanco v. Indus. Comm’n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393 n.2 (App. 2007); *see also State v. Moody*, 208 Ariz. 424, n.9, 94 P.3d 1119, 1147 n.9 (2004), *quoting State v. Carver*, 160 Ariz. 167, 175, 771 P.2d 1382, 1390 (1989) (“Merely mentioning an argument is not enough: ‘In Arizona, opening briefs must present significant arguments, supported by authority, setting forth an appellant’s position on the issues raised. Failure to argue a claim usually constitutes abandonment and waiver of that claim.’”).

Disposition

¶7 For the foregoing reasons, we affirm the ALJ’s award.

²Nevertheless, because Zepeda is self-represented we decline respondents’ suggestion that we dismiss this case as a sanction under Rule 25, Ariz. R. Civ. App. P.