

ARKANSAS COURT OF APPEALS

DIVISION III
No. CA09-293

CHARLES KOSTER

APPELLANT

V.

CUSTOM PAK & TRISSEL, GRAHAM
& TOOL, INC.

APPELLEES

Opinion Delivered November 18, 2009

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION [F705738]

AFFIRMED

DAVID M. GLOVER, Judge

An administrative law judge determined that Charles Koster sustained a compensable injury to his left elbow while pulling flash¹ on June 6, 2006; that his right upper-extremity complaints, which required medical treatment and resulted in periods of temporary total disability, were a compensable consequence of the June 6, 2006 injury; and that Koster was temporarily totally disabled from March 27, 2007, to a date yet to be determined. The Commission reversed the ALJ's decision, finding that Koster did not prove that his right upper-extremity complaints were a compensable consequence of the injury to his left upper extremity and that he did not prove he was entitled to additional benefits from appellees.

¹ "Flash" is the excess plastic on a molded plastic part.

Koster now appeals, arguing that the Commission's decision is not supported by substantial evidence. We affirm the decision of the Commission.

At the hearing, Koster testified that he worked at Custom Pak, cutting and pulling flash from leaf-blower tubes; that in 2006, something began burning in his arm and elbow; and that he told his supervisor that he had a problem with his left arm and elbow. He was unsure when his right arm became a problem for him, but he said that he favored his left arm, which caused him to over-use his right arm.

When reviewing a decision of the Commission, this court views the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings and affirms the decision if it is supported by substantial evidence. *Finley v. Farm Cat, Inc.*, 103 Ark. App. 292, 288 S.W.3d 685 (2008). The issue is not whether we might have reached a different result or whether the evidence would have supported a contrary finding; if reasonable minds could reach the Commission's conclusion, we must affirm. *Id.* Where the Commission denies benefits because the claimant has failed to meet his burden of proof, the substantial-evidence standard of review requires us to affirm if the Commission's decision displays a substantial basis for the denial of relief. *Parson v. Arkansas Methodist Hosp.*, 103 Ark. App. 178, 287 S.W.3d 645 (2008). A substantial basis exists if fair-minded persons could reach the same conclusion when considering the same facts. *Id.*

Questions concerning the credibility of witnesses and the weight to be given to their testimony are within the exclusive province of the Commission. *Cedar Chem. Co. v. Knight*, 372 Ark. 233, 273 S.W.3d 473, (2008). When there are contradictions in the evidence, it is

within the Commission's province to reconcile conflicting evidence and to determine the true facts. *Id.* The Commission is not required to believe the testimony of the claimant or any other witness, but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief; this court is foreclosed from determining the credibility and weight to be accorded to each witness's testimony. *Id.*

Koster argues that there was a causal connection between his compensable left-elbow injury and his subsequent right-elbow problems. When the primary injury is shown to have arisen out of and in the course of the employment, the employer is responsible for every natural consequence that flows from that injury. *McDonald Equip. Co. v. Turner*, 26 Ark. App. 264, 766 S.W.2d 936 (1989). The basic test is whether there is a causal connection between the two episodes. *Jeter v. B.R. McGinty Mech.*, 62 Ark. App. 53, 968 S.W.2d 645 (1998). The determination of whether the causal connection exists is a question of fact for the Commission to determine. *Carter v. Flintrol, Inc.*, 19 Ark. App. 317, 720 S.W.2d 337 (1986). It is not, however, essential that the causal relationship between the accident and disability be established by medical evidence. *Gerber Prods. v. McDonald*, 15 Ark. App. 226, 691 S.W.2d 879 (1985). A finding of causation in a workers' compensation case does not need to be expressed in terms of a reasonable medical certainty when there is supplemental evidence supporting the causal connection. *Heptinstall v. Asplundh Tree Expert Co.*, 84 Ark. App. 215, 137 S.W.3d 421 (2003).

Here, Koster points to the medical evidence regarding his right-elbow problems to argue that he had proved a causal connection between his compensable left-elbow injury and

his right-elbow problems. However, Koster had the same problems on his right side since 1995, although he failed to mention them. Furthermore, Koster in no way connected his right-elbow problems to his compensable injury during the time he was seeking treatment. During the course of treatment, he did not claim that the problems with his right arm were work related; in fact, he filed for short-term disability under the Family Medical Leave Act, indicating that his problems were not work related. None of the doctors Koster saw stated that the right-elbow problems were work related; in fact, some of the doctors specifically stated that the problems were not work related, and one doctor stated that the bilateral pain was of unknown etiology. Given this evidence, we cannot say that the Commission's denial of benefits is not supported by substantial evidence.

The only question presented in this appeal is the sufficiency of the evidence, and the Commission's findings of fact, conclusions of law, and opinion adequately explain its decision. Having determined that the Commission's findings are in fact supported by substantial evidence, we affirm by memorandum opinion. *In re Memorandum Opinions*, 16 Ark. App. 301, 700 S.W.2d 63 (1985).

Affirmed.

GLADWIN and BROWN, JJ., agree.