

Cite as 2009 Ark. App. 801

ARKANSAS COURT OF APPEALSDIVISION I
No. CA 09-551

CHRISTOPHER AUSLER

APPELLANT

VS.

J.B. HUNT and AIG CLAIMS SERVICE

APPELLEES

Opinion Delivered DECEMBER 2, 2009APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION, [NO. F509311]

AFFIRMED

JOHN B. ROBBINS, Judge

Appellant Christopher Ausler appeals the denial of his claim for benefits he sought before the Workers' Compensation Commission regarding an alleged back injury he said he sustained at work on August 28, 2005. Appellant undisputedly sustained a compensable right-knee injury on that date and was provided reasonably necessary medical care and temporary total disability through December 2005. Appellant sought additional benefits for his right-knee injury, but he did not prevail before the administrative law judge (ALJ) on that issue. The ALJ did, however, find that appellant proved entitlement to benefits for his injured back. On appeal to the Commission, it reversed the award of benefits, and appellant appeals that decision. Appellant does not advance any argument regarding his right knee but rather focuses his argument about the compensability of a low-back strain and herniation. We have reviewed this case under the proper standards and affirm because the Commission's decision

Cite as 2009 Ark. App. 801

displays a substantial basis for denial of benefits.

In reviewing a decision from the Workers' Compensation Commission, our court reviews the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings and affirms if the decision is supported by substantial evidence. *White v. Frolic Footwear*, 59 Ark. App. 12, 952 S.W.2d 190 (1997). Substantial evidence exists only if reasonable minds could have reached the same conclusion without resort to speculation or conjecture. *White Consol. Indus. v. Galloway*, 74 Ark. App. 13, 45 S.W.3d 396 (2001). Where the denial of a claim is based upon the claimant's failure to meet his burden of proving entitlement to benefits, the substantial-evidence standard of review requires that we affirm if the Commission's decision displays a substantial basis for the denial of relief. *Frances v. Gaylord Container Corp.*, 341 Ark. 527, 20 S.W.3d 280 (2000); *Williams v. Ark. Oak Flooring Co.*, 267 Ark. 810, 590 S.W.2d 328 (Ark. App. 1979). It is within the Commission's province to reconcile conflicting evidence, including the medical evidence, and to determine the true facts. *Stone v. Dollar Gen. Stores*, 91 Ark. App. 260, 209 S.W.3d 445 (2005). We will not reverse the Commission's decision unless we are convinced that fair-minded persons with the same facts before them could not have reached the conclusions of the Commission. *Cedar Chem. Co. v. Knight*, 99 Ark. App. 162, 258 S.W.3d 394 (2007). There may be substantial evidence to support the Commission's decision even though we might have reached a different conclusion if we were sitting as the trier-of-fact or heard the case de novo. *Nucor Corp. v. Rhine*, 366 Ark. 550, 237 S.W.3d 52 (2006).

Cite as 2009 Ark. App. 801

The evidence presented to the Commission was as follows. Appellant, a heavy-set man in his late forties, worked for J.B. Hunt as a truck driver. He had two prior right-knee surgeries (1986 and 1987). On August 28, 2005, appellant was working as a truck driver when he slipped and fell attempting to enter the cab of his truck. At the emergency room, appellant told doctors that his knee “gave out” and his buttock landed on his right foot. The medical records at that time reflected complaints of right-knee pain and numbness in his right heel. An examination of the foot revealed that it was neurologically intact. Appellant was diagnosed with a right-knee strain, was given a knee brace, was placed on light duty, and continued to work on the side in his carpet-laying business. In October and November 2005, appellant was released to full duty.

In a visit to Dr. Carter on November 4, 2005, appellant’s chief reason for the visit was a high-blood pressure follow-up visit. While there, Dr. Carter reviewed all of appellant’s systems and noted he was “having trouble with right ankle numbness and weakness since an injury to his right knee on August 28. . . . [Appellant] has had lower back problems with degenerative disc disease for a number of years.” An MRI conducted in November confirmed the presence of a very small herniation at L5-S1. Later in November 2005, Dr. Carter recorded complaints of “chronic” low-back pain radiating into the right buttock. A functional capacity evaluation conducted in December 2005 demonstrated that appellant was capable of lifting up to eighty pounds, which translated into the capacity for heavy work. The employer accepted responsibility for the knee injury and paid commensurate benefits

Cite as 2009 Ark. App. 801

through December 2005.

Appellant continued to treat with physicians for his pain associated with degenerative disc disease “consistent with his age.” Appellant believed his back problems were related to the fall and was reporting this to his medical care providers by late 2005. Neurological testing of the right lower extremity in February 2006 revealed no abnormalities. Appellant was prescribed physical therapy for his back pain, but he was not compliant with the appointments. By August 2006, appellant was diagnosed with back spasms and degenerative joint disease of the back, particularly in the L4-5 and L5-S1 region.

Appellant underwent back surgery in May 2007 to correct a herniation at L5-S1. Appellant ultimately underwent surgical repair of his right-knee maladies at the veteran’s hospital in August 2007.

The ALJ contemplated the evidence and found that appellant had proven a causal link between his back condition and the work fall in August 2005. On de novo review, a majority of Commissioners disagreed. The Commissioners found that none of the initial medical records corroborated the existence of a back injury or back pain associated with the fall from the truck. Instead, the Commissioners found it notable that his treating physician described him on November 4, 2005, as having suffered lower back problems with degenerative disc disease for a number of years. The Commissioners determined that appellant failed to prove that the symptoms caused by the objective signs of injury in the November 2005 MRI were caused by the fall on August 28, 2005. Thus, the Commissioners

Cite as 2009 Ark. App. 801

determined that appellant failed in his burden to prove a causal connection. Ark. Code Ann. § 11-9-102 (Repl. 2002).

This claim was driven by a finding of fact on causation. *Hernandez v. Wal-Mart, Inc.*, 2009 Ark. App. 531, ___ S.W.3d ___. It was up to the Commission, as the finder of fact, to resolve conflicting medical opinions and evidence regarding the causation of the disc herniation. The evidence, viewed in the light most favorable to the Commission's findings, is such that reasonable minds could have reached the conclusion of the Commission without resort to speculation or conjecture. *White Consol. Indus. v. Galloway*, 74 Ark. App. 13, 45 S.W.3d 396 (2001). We hold that the Commission did not arbitrarily disregard evidence but rather deciphered the evidence, finding a causal connection to be lacking. There is a substantial basis for the denial of relief, even if we might have decided differently.

Affirmed.

VAUGHT, C.J., and HART, J., agree.