

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA08-678

JOHNSON MEDICAL CENTER and
RISK MANAGEMENT RESOURCES
APPELLANTS

V.

STARLA TRIPP

APPELLEE

Opinion Delivered February 18, 2009

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. F608366]

AFFIRMED

LARRY D. VAUGHT, Chief Judge

In this case we consider whether appellee Starla Tripp proved entitlement to temporary total disability and additional medical benefits following a motor-vehicle accident in which she sustained a compensable injury to her neck and back. After a hearing, the administrative law judge awarded Tripp the benefits she sought, including any reasonable and necessary future medical treatment. Appellant Johnson Medical Center appealed to the Workers' Compensation Commission, and the decision of the ALJ was adopted by the Commission. Appellant now contends the Commission's decision should be reversed because it was not supported by substantial evidence. We hold that substantial evidence supports the Commission's findings and affirm.

The primary focus of this appeal is whether Tripp is entitled to temporary-total-disability benefits from July 25, 2006, to September 11, 2006. It was Tripp's burden to prove

that, during this time, she continued within her healing period from the effects of her compensable injury and was prevented (because of her compensable injury) from performing all forms of regular, gainful employment for which she would otherwise be qualified. Here, the medical evidence established that Tripp was under active medical treatment from the date of her compensable injury through September 11, 2006, and as such was within the boundaries of her “healing period.” However, the more controversial question was whether she was medically disabled during this period.

The Commission concluded that she was. Specifically, in relation to Tripp’s duty to prove actual disability during her healing period, the Commission’s finding that she successfully carried her burden was predicated on the initial emergency-room record showing that Tripp was taken off work or medically restricted from work “until cleared by a PCP [primary care physician]” and that none of the reports from her various treating doctors released her to return to any type of employment. Despite not being cleared to work, Tripp also provided appellant with “off-work slips” that were allegedly signed by her treating doctors and were, as noted by the ALJ, “of extremely dubious authenticity.” Indeed, the ALJ observed that “[i]t is obvious, even to the untrained eye, that the purported signatures of Dr. Turner, Dr. Barton, and Dr. Dunn bear not only an uncanny similarity to each other, but also bear the similarity to the form and style of [Tripp’s] signature.” Based on these observed credibility questions, the ALJ was clear that “absolutely no weight and credit” was placed on these off-work slips in determining whether Tripp was disabled from performing her regular gainful employment. In its final analysis, the Commission determined that the evidence established that Tripp had no reasonable expectation of obtaining regular gainful employment

on the open job market and was rendered totally disabled by her compensable injuries during the period of July 25, 2006, through September 11, 2006. On appeal, appellant contends that this conclusion is erroneous and urges us to reverse.

We review decisions of the Commission to see if they are supported by substantial evidence. *Deffenbaugh Indus. v. Angus*, 39 Ark. App. 24, 832 S.W.2d 869 (1992). In determining the sufficiency of the evidence to support the findings of the Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to its findings, and we will affirm if those findings are supported by substantial evidence. Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Id.* The determination of the credibility and weight to be given a witness's testimony is within the sole province of the Commission. *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 it deems worthy of belief. *Farmers Coop. v. Biles*, 77 Ark. App. 1, 69 S.W.3d 899 (2002). Further, the Commission has the authority to accept or reject medical opinions, and its resolution of the medical evidence has the force and effect of a jury verdict. *Estridge v. Waste Mgmt.*, 343 Ark. 276, 33 S.W.3d 167 (2000).

Based on our review standard, we must affirm. The reality remains that the emergency-room report placed Tripp on medical disability until she was cleared by a physician. At no time during her healing period was she cleared by any of her treating doctors. As such, the decision of the ALJ, which was adopted by the Commission, is supported by substantial evidence and is affirmed.

On a final note, appellant makes much ado over the fact that Tripp was awarded “future” medical benefits without proving any necessity for such treatment. That is simply not the case. The record before us shows that the ALJ merely recognized that if Tripp has any “reasonable and necessary” future expense related to her compensable injury, her employer must pay. There is nothing profound here; that is the law. Ark. Code Ann. § 11-9-704 (Repl. 2002). The employer can controvert the reasonableness or necessity of any of these prospective benefits, should they arise. As such, we find that the decision of the Commission is supported by substantial evidence and is affirmed in its entirety.

Affirmed.

ROBBINS and GRUBER, JJ., agree.