

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
TERRY CRABTREE, JUDGE

DIVISION I

CA 06-522

LOU ANNE MITCHELL

December 20, 2006

APPELLANT

V.

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. F501085]

ARMSTRONG WOOD PRODUCTS,  
D/B/A ROBBINS HARDWOOD  
FLOORING

APPELLEE

AFFIRMED

Appellant Lou Anne Mitchell appeals the denial of her workers' compensation claim. She had sought medical and temporary-total disability benefits associated with bilateral carpal-tunnel syndrome. The Commission determined that appellant failed to show that her condition was causally connected with her work. Appellant contends that the Commission's decision is not supported by substantial evidence. We disagree and affirm.

Mitchell is forty-two years old and had worked for appellee, Armstrong Wood Products, for fourteen years. She began her employment as a nester, but later she became a grader. Mitchell explained that nesting required her to fill defects in wood with putty. Grading involved picking up wood on a conveyor belt, inspecting it, and marking defects.

She said that both jobs were hand-intensive, fast-paced jobs, in which she was expected to perform a certain amount of work in a set period of time.

Mitchell's family physician is Dr. Kerry F. Pennington. Medical records from his office reveal that appellant first complained of pain in her wrists in November and December of 1990. She complained of right wrist pain again in February and October of 1994. Nerve conduction testing at that time revealed no abnormalities, although there were positive results for Tinel's and Phalen's. Mitchell had a child in May 1998, and an office note of Dr. Pennington's written shortly after the birth stated that "[h]er main complaint is still numbness in her right hand from carpal tunnel." Dr. Pennington reported in November 1999 that she was having "trouble with her carpal tunnel," with positive bilateral Phalen's and Tinel's. He prescribed splints for her wrists. An office note dated August 28, 2001, stated that Mitchell was experiencing numbness in both hands, and it said, "however, this is not new since she does have carpal tunnel."

Mitchell saw Dr. Pennington in February 2003 with the complaint that the pain in her wrists was worsening. Another nerve conduction study was taken that produced normal results. In January 2004, Mitchell saw Dr. Pennington again because she was "having trouble with her hands." She reported that her hands continued to hurt, burn and sting. An office note in July 2004 stated that she continued to have intermittent numbness of both hands and that she had swelling which was "not new." In October 2002, an office note stated that appellant was complaining of both hands going to sleep and that she awakens

at night with both hands feeling numb and tingly. Office notes in December 2004 stated that her hands were “going numb.” Dr. Pennington then referred Mitchell to Dr. G. Thomas Frazier.

Dr. Frazier saw Mitchell on December 27, 2004. He wrote:

Lou Mitchell is a forty-one-year-old, right-hand dominant female who presents for evaluation of a 10 to 14-year history of bilateral hand pain and numbness. The initial onset of symptoms was around 1990. Her symptoms worsened somewhat during pregnancy in 1998. She is now having frequent nocturnal symptoms to awaken her from sound sleep. She has worn splints for many years and these are no longer helpful. She has noted subjective loss of pinch/grip strength and dexterity in both hands. The right hand symptoms are subjectively worse than the left. She had nerve conduction and EMG studies done in February 2003, which were reportedly normal.

It was Dr. Frazier’s impression that Mitchell may have bilateral carpal-tunnel syndrome, and he recommended that she have electrodiagnostic studies of both median and ulnar nerves and that she be evaluated by Dr. Reginald Rutherford, a neurologist.

On January 5, 2005, Dr. Frazier wrote Dr. Pennington that Mitchell had undergone electrodiagnostic testing by Dr. Rutherford which demonstrated bilateral carpal-tunnel syndrome, mild to moderate on the right, and mild on the left. Dr. Frazier administered bilateral carpal-tunnel injections. He took Mitchell off work and directed her to wear volar wrist splints and to return in six weeks. On February 16, 2005, Mitchell returned to Dr. Frazier and complained that there had been no change in symptoms as a result of the injections. Therefore, he recommended a right carpal-tunnel release, which was performed

on March 3. On March 14, Dr. Frazier returned Mitchell to light duty with the restrictions that she perform no grasping, lifting or repetitive activities with the right hand. On April 18, Dr. Frazier issued a work slip stating that she should not return to work until May 2, 2005.

On March 16, 2005, Dr. Pennington wrote a letter "To Whom It May Concern." He stated:

Ms. Mitchell's chart reflects, in May of 1998, at her postpartum visit, that I still felt she had some right carpal tunnel syndrome related to her pregnancy. I advised her, at that time, if her symptoms did not resolve within 4-6 weeks, to let me know. They did resolve and I heard nothing else from her. She did start having symptoms again in 2002 and 2003, but nerve conduction studies done in February '03, were normal.

It is therefore, my professional opinion, that her current carpal tunnel is related to her very recent workload with repetitive movement and grasping. I do not feel that she had a long-term carpal tunnel syndrome in '98, but that this was more related to her pregnancy, which is a well recognized, self-limited process.

Ms. Mitchell testified that she noticed that she had problems with her wrists in relation to the job, depending on how much work she had done. She said that it became worse about a year ago when she was working a lot of overtime. She testified that she had experienced problems with her hands since 1990 and that she had complained to Dr. Pennington over the years of numbness and tingling and that she had worn splints off and on for a number of years, though she had never reported a work-related injury. She recalled

the problem with her hands that she had in 2003 and when she was pregnant in 1998. She said that during her pregnancy she gained seventy pounds and that swelling from fluid put pressure on the nerve in her wrist that caused symptoms of carpal tunnel. After the carpal-tunnel release, she returned to work on May 2, 2005, but she said that she voluntarily quit her job in June and has not worked since. Mitchell said that she still needed medical treatment because of numbness in her left hand and fingers on her right hand. She felt that she was capable of working but that she could not find a job. She believed that she was being “blackballed” by appellee.

Appellant testified that she had received short-term disability benefits while she was off work from December 8, 2004 through May 2, 2005, and that she had stated on application to receive these benefits that her carpal-tunnel syndrome was not work-related. She said, however, that she later corrected that application to say that it was work-related. Her surgery and related treatment were also submitted and paid for by her health insurance provider. Mitchell admitted that she had filed her claim for benefits directly with the Commission and that she had not notified appellee that she was having work-related problems until she filed the claim. She said that she did not fill out the necessary forms with appellee because she believed that there was a time limit. She also testified that she was familiar with the procedure for filing workers’ compensation claims because she had filed claims for work-related injuries in the past, and because she had formerly been the vice president of the union. Mitchell said that she also knew that Marty Reep handled

workers' compensation claims for appellee and that there was a separate department that handled insurance and short-term disability claims. She acknowledged that she never told Mr. Reep about an alleged work-related injury or the diagnosis of carpal-tunnel syndrome.

The Commission in this case affirmed and adopted as its own the opinion of the administrative law judge. In finding that Mitchell had failed to establish a causal connection between her carpal-tunnel syndrome and work, the Commission noted that Mitchell had symptoms relating to carpal-tunnel syndrome for many years and that she did not relate her problems to her work when she saw Dr. Pennington in December 2004. It also noted that Dr. Pennington's office notes never made mention of the work as having caused or aggravated her symptoms. The Commission was not impressed with Dr. Pennington's letter of March 2005, stating that Mitchell's condition was work-related, because it came after a note in file saying that she wanted to "talk about workman's compensation" with him. In addition, none of his office notes spoke of the condition as possibly being related to her job. The Commission also observed that Mitchell did not believe that her condition was work-related because she had applied for and received short-term disability benefits and had turned the claim in to her group health insurance carrier.

Mitchell contends on appeal that her condition should be considered work-related given the nature of her job. She also argues that she should not be faulted for any uncertainty she had as to whether her condition was connected with the work.

When reviewing a decision of the Workers' Compensation Commission, we view

the evidence and all reasonable inferences deducible therefrom in the light most favorable to the findings of the Commission and affirm that decision if it is supported by substantial evidence. *Superior Industries v. Thomaston*, 72 Ark. App. 7, 32 S.W.3d 52 (2000). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Wackenhut Corp. v. Jones*, 73 Ark. App. 158, 40 S.W.3d 333 (2001). Our question is not whether the evidence would have supported findings contrary to those of the Commission; rather, the decision of the Commission must be affirmed if reasonable minds might have reached the same conclusion.

The credibility of witnesses' testimony is within the province of the Commission. *Williams v. Brown's Sheet Metal*, 81 Ark. App. 459, 105 S.W.3d 382 (2003). Likewise, 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. *Poulan Weed Eater v. Marshall*, 79 Ark. App. 129, 84 S.W.3d 878 (2002).

When the Commission denies coverage because the claimant failed to meet her burden of proof, the substantial evidence standard of review requires that we affirm if the Commission's opinion displays a substantial basis for the denial of relief. *Crudup v. Regal Ware, Inc.*, 69 Ark. App. 206, 11 S.W.3d 567 (2000). We find a substantial basis here. The Commission noted the long history of Mitchell's complaints about her hands and wrists. The Commission rejected the opinion of Dr. Pennington as lacking credibility, and it found that Mitchell's actions belied her claim that the injury was related to her work.

Substantial evidence support the decision; therefore, we affirm.

Affirmed.

GLOVER and VAUGHT, JJ., agree.