

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
D.P. MARSHALL JR., JUDGE

DIVISION IV

CA07-895

12 March 2008

CENTRAL MOLONEY, INC.,
CROCKETT ADJUSTMENT,

AN APPEAL FROM THE ARKANSAS TPA,
WORKERS' COMPENSATION
COMMISSION [F505366]

APPELLANTS

v.

SCHEDRICK RINGO,

APPELLEE

AFFIRMED

Schedrick Ringo worked on electrical transformers at Central Moloney for twenty-seven years. In 2001*, he hurt his back on the job while lifting propane bottles. An MRI showed that he had a herniated disc at L4-L5. He received non-surgical conservative treatment, and after a few months returned to a full work load at Central Moloney. In April 2005, Ringo hurt his back again when he was pushing a heavy electrical transformer. Another MRI showed the same L4-L5 disc herniation, plus mild central canal stenosis and mild degenerative disc disease. Dr. Simpson diagnosed him with a lumbar strain. Ringo returned to Central Moloney, but could only work intermittently and at less than full strength because

*Dr. Simpson's medical notes reflect that this injury occurred in September 2001. Other medical records, the ALJ, and the Commission, however, refer to it as a 2002 injury. The exact date of this injury does not matter to our legal analysis.

of his back trouble. Ringo got a new doctor—Dr. Chakales—who ordered a third MRI and a myelogram. Those tests showed degenerative changes, bulging discs, and severe spinal stenosis at the L4-L5 level. Dr. Chakales performed back surgery on Ringo in June 2006.

Central Moloney accepted the compensability of the 2005 injury, but refused to pay for Ringo’s additional medical treatment, including surgery, contending that it was needed only to correct back problems that were unrelated to his injury. The ALJ and Commission disagreed, and awarded Ringo benefits for the surgery. Central Moloney appeals, arguing that, because Ringo had L4-L5 problems after his 2001 injury, there is not enough proof that his 2005 injury—rather than the pre-existing condition—made his surgery reasonably necessary. We hold, however, that substantial evidence supports the Commission’s decision. *Williams v. L&W Janitorial, Inc.*, 85 Ark. App. 1, 3–4, 145 S.W.3d 383, 384 (2004).

To receive benefits for the surgery, Ringo had to show that it was reasonably necessary in connection with his compensable 2005 injury. Ark. Code Ann. § 11-9-508(a) (Supp. 2007); *Gansky v. Hi-Tech Engineering*, 325 Ark. 163, 168, 924 S.W.2d 790, 794 (1996). And because Ringo is seeking medical benefits and temporary total disability (not permanent disability), he had to show by a preponderance of the evidence that the 2005 injury was one cause—not necessarily the *major* cause—of his need for surgery. *Williams*, 85 Ark. App. at 9–11, 145 S.W.3d at 388–89. He did.

It is true that the MRI taken after his 2001 injury and the MRI taken soon after the 2005 injury are substantially the same. And Dr. Simpson stated that he thought Ringo’s condition in 2005 was very similar to his condition after the 2001 injury. Ringo’s level of pain after each injury, however, was different. Before the 2005 injury, Ringo could work at

full strength. His back pain became severe only after he got hurt pushing the transformer in 2005. After that, Ringo was unable to work at full strength and “couldn’t shake” the pain even with months of conservative treatment. When the third MRI and the myelogram revealed Ringo’s severe back condition, Dr. Chakales recommended surgery, and Ringo began to feel better afterwards.

There is no evidence about why Ringo’s condition did not improve, and indeed seemed to worsen, between the second and third MRIs. There is no evidence of, for example, a further back injury at home during this time. Ringo simply testified about his continued back pain and inability to work at full strength. The Commission had to weigh this testimony and the medical evidence to determine whether the surgery was reasonably necessary and causally related to Ringo’s 2005 injury. *Williams*, 85 Ark. App. at 4, 145 S.W.3d at 384. It was persuaded by Dr. Chakales’s opinion that further medical treatment was reasonable and necessary to correct Ringo’s 2005 injury, and that Ringo should have corrective surgery. The Commission was entitled to resolve the conflicts in the record in Ringo’s favor. *Williams*, 85 Ark. App. at 3–4, 145 S.W.3d at 384. We therefore affirm the Commission’s decision.

HEFFLEY and BAKER, JJ., agree.