

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H101073

TERESA BAXTER, Employee	CLAIMANT
GATES CORPORATION, Employer	RESPONDENT
GALLAGHER BASSETT SERVICES, Carrier/TPA	RESPONDENT

OPINION FILED MAY 18, 2022

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by EVELYN E. BROOKS, Attorney, Fayetteville, Arkansas.

Respondents represented by JAMES A. ARNOLD, II, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

On April 27, 2022, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on February 23, 2022 and a pre-hearing order was filed on February 24, 2022. A copy of the pre-hearing order has been marked as Commission's Exhibit #1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The employee/employer/carrier relationship existed among the parties on September 10, 2020.
3. The claimant sustained a compensable injury in the form of carpal tunnel syndrome to her right hand/wrist on September 10, 2020.

At the pre-hearing conference the parties agreed to litigate the following issues:

1. Compensability of injury to claimant's left hand/wrist as a compensable consequence of her September 10, 2020 compensable right hand/wrist injury.
2. Medical for left hand/wrist as well as additional medical for right hand/wrist.

At the time of the hearing claimant withdrew the issue of additional medical treatment for her right hand/wrist.

The claimant contends she sustained a compensable injury to her left hand/wrist as a result of a compensable consequence of her right hand/wrist injury of September 10, 2020, and that she is entitled to treatment for her left wrist and hand. Claimant reserves all other issues.

The respondents contend that all appropriate benefits have been paid.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witness and to observe her demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

#### FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on February 23, 2022 and contained in a pre-hearing order filed February 24, 2022 are hereby accepted as fact.

2. Claimant has failed to meet her burden of proving by a preponderance of the evidence that she suffered a compensable injury to her left hand/wrist as a compensable consequence of her September 10, 2020 compensable right hand/wrist injury.

### FACTUAL BACKGROUND

Claimant is a 59-year-old woman who began working for respondent as a builder in July 2019. She was employed as a builder using string and rubber to make belts. Claimant's job also included changing out molds which required the use of a hoist. She testified that there was not any work at respondent that did not require the constant use of her hands.

The parties have stipulated that claimant suffered a compensable injury in the form of carpal tunnel syndrome to her right hand/wrist on September 10, 2020. Claimant testified that on that day she had swelling in her right hand and fingers while she was building. Claimant reported her problems to respondent and was sent to the nurse's station before she was sent for medical treatment with J. Daniel Nicholas, PA. Nicholas ordered an NCV/EMG for claimant's bilateral upper extremities. Those tests were performed on October 28, 2020 and were read as showing bilateral median nerve entrapment consistent with carpal tunnel syndrome.

Nicholas diagnosed claimant's condition as bilateral carpal tunnel syndrome and referred her for an orthopedic evaluation. Claimant's initial orthopedic evaluation was with Dr. Coker on November 5, 2020 who indicated that claimant's NCV showed bilateral carpal tunnel syndrome. He treated claimant with an injection in her right wrist and prescribed the use of braces. Claimant saw Dr. Coker only one time before coming under the care of Dr. Jeffrey Johnson on November 19, 2020. Dr. Johnson also diagnosed claimant with bilateral carpal tunnel syndrome and ordered an MRI scan of her right wrist. According to his report of December 10, 2020, the MRI scan revealed a degenerative tear of the TFC and other degenerative changes in the hand and wrist. Dr. Johnson prescribed

the continued use of a splint at night and no use of vibratory tools. Dr. Johnson also referred claimant to Dr. Deimel for evaluation of claimant's neck based on her hand numbness. Dr. Deimel in a report dated December 29, 2020 ordered a cervical MRI scan. Claimant did not undergo the MRI scan and Dr. Johnson ordered an FCE which was performed on March 18, 2021. The FCE evaluation was deemed to be reliable with 49 of 49 consistency measures within expected limits. The evaluation also determined that claimant could perform work in the medium classification.

In a report dated April 14, 2021, Dr. Johnson indicated that he was discharging claimant for workers' compensation purposes and that she should receive follow-up care with Dr. Deimel and undergo rheumatologic lab testing due to a family history of lupus.

Following her release by Dr. Johnson, claimant received a change of physician to Dr. James Kelly who has also diagnosed claimant with bilateral carpal tunnel syndrome. He performed a right carpal tunnel release on November 4, 2021, and has opined that after that procedure claimant can undergo a carpal tunnel release on the left side.

Respondent accepted a compensable injury in the form of carpal tunnel syndrome in claimant's right hand and has paid compensation benefits. Respondent has not accepted liability for carpal tunnel syndrome in claimant's left hand/wrist. Claimant has filed this claim contending that her left hand/wrist problems are a compensable consequence of her compensable right hand/wrist injury.

### ADJUDICATION

Claimant contends that she suffered a compensable injury to her left hand/wrist as a compensable consequence of her September 10, 2020 compensable right hand/wrist

injury. Specifically, claimant contends that because of her right hand/wrist injury she had to use her left hand more resulting in a compensable consequence.

If an injury is compensable, every natural consequence of that injury is likewise compensable. *Air Compressor Equip. Company v. Sword*, 69 Ark. App. 162, 11 S.W. 3d 1 (2000); *Hublely v. Best Western Governor's Inn*, 52 Ark. App. 226, 916 S.W. 2d 143 (1996). The test is whether a causal connection between the two episodes exists. *Sword, supra*; *Jeter v. McGintey Mch.*, 62 Ark. App. 53, 968 S.W. 2d 645 (1998). The existence of a causal connection is a question of fact for the Commission. *Koster v. Custom Pak & Trissel*, 209 Ark. App. 780.

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has failed to meet her burden of proof. Specifically, I find that claimant has failed to prove that a causal connection exists between her compensable right hand/wrist injury and her left hand/wrist complaints. The evidence of record does not support a finding that her left hand/wrist issues developed as a result of her not being able to use her right hand/wrist. Instead, the evidence indicates that claimant has had issues with her left hand since the time of her initial treatment. On October 9, 2020 Nicholas ordered bilateral NCV/EMG testing and those tests were performed on October 28, 2020, revealing that claimant had bilateral carpal tunnel syndrome. Thus, claimant has been diagnosed with carpal tunnel on the left side since the time of her initial medical treatment.

Multiple medical providers including Nicholas, Dr. Coker, Dr. Johnson, and Dr. Kelly have all diagnosed claimant as having bilateral carpal tunnel syndrome. This would indicate that claimant's left hand/wrist condition did not result from the additional use of

her left hand, but instead was a condition that existed from the outset.

Even claimant admitted that she had symptoms in both hands from the outset of her complaints.

Q But from your testimony here today is that you had symptoms in both hands from the outset; is that correct?

A That's correct.

Dr. Kelly has proposed a carpal tunnel release of the claimant's left hand/wrist, a condition that has existed since claimant first sought medical treatment. In a letter dated August 27, 2021, Dr. Kelly noted that claimant had positive nerve conduction studies in the left hand as well as the right. That nerve conduction study was performed on October 28, 2020.

While claimant has testified that her right wrist was the one causing her the most issues, her left-sided carpal tunnel syndrome has been present and diagnosed since the date of the original testing. I also note that the medical evidence does not mention claimant reporting increased issues involving her left hand as a result of not using her right hand. In fact, according to the report of Dr. Johnson dated February 24, 2021, there is evidence that claimant was continuing to use her right hand:

Exam of the right upper extremity reveals small nicks and scratches in her right hand. There is no loss of calluses to suggest that she is not using it.

Likewise, the FCE also indicates that other than carrying groceries claimant uses her right hand for daily activities:

Ms. Baxter describes her current activity level as "normal." She states that she is home cleaning

or shopping. She states that she doesn't have any trouble doing anything at home because, "I guess I don't extend myself that much." She states that cleaning doesn't hurt because she's used to how it feels. She states that she can cook and grocery shop but carries the groceries with her left hand.

In summary, claimant contends that she suffered a compensable injury to her left hand/wrist in the form of carpal tunnel syndrome as a compensable consequence of her right hand/wrist injury. I find that she has failed to meet her burden of proof. Claimant has been diagnosed with bilateral carpal tunnel syndrome since the time of her initial testing on October 28, 2020. All the medical providers in this claim have diagnosed her with bilateral carpal tunnel syndrome. Claimant did not report to her treating physicians increased left hand/wrist pain as a result of having to use her left wrist more due to the right hand injury. Finally, the medical report of Dr. Johnson dated February 24, 2021 and the FCE dated March 18, 2021 indicate that claimant continued to use her right hand.

I have not addressed the issue of whether claimant suffered a compensable injury to her left hand/wrist as a result of her job activities with respondent. Claimant did not contend that her left hand issues were related to her employment, but instead contends that they are a compensable consequence of her right hand/wrist injury. For reasons set out above, I find that she has failed to meet that burden of proof.

### ORDER

Claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury in the form of carpal tunnel syndrome to her left hand/wrist as a compensable consequence of her September 10, 2020 compensable right hand/wrist

injury. Therefore, her claim for compensation benefits is hereby denied and dismissed.

Respondents are responsible for payment of the court reporter's charges for preparation of the hearing transcript in the amount of \$380.40.

IT IS SO ORDERED.

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GREGORY K. STEWART  
ADMINISTRATIVE LAW JUDGE