

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H006871

SHEILA EDWARDS, Employee	CLAIMANT
ELKHART PRODUCTS CORPORATION, Employer	RESPONDENT
GREAT AMERICAN INSURANCE COMPANY, Carrier/TPA	RESPONDENT

OPINION FILED MARCH 15, 2021

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

Claimant represented by JARID M. KINDER, Attorney, Ozark, Arkansas.

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

STATEMENT OF THE CASE

On February 24, 2021, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on December 9, 2020 and a pre-hearing order was filed on December 9, 2020. 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 July 28, 2020.

At the time of the hearing the parties agreed to stipulate that claimant earned

sufficient wages to entitle her to compensation at the rates of \$388.00 for total disability benefits and \$291.00 for permanent partial disability benefits.

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

1. Compensability of injury to claimant's left upper extremity on July 28, 2020.
2. Medical.

At the time of the hearing claimant added as an issue her entitlement to temporary total disability benefits beginning November 30, 2020 and continuing through March 4, 2021. Furthermore, in the event claimant were to be awarded temporary total disability benefits, respondent requests a credit for any short-term disability benefits paid to claimant by a company provided policy.

The claimant contends she sustained a compensable left upper extremity/shoulder injury on July 28, 2020 while working for the respondent. Despite objective evidence of injury, the respondents denied compensability taking the position that the edema was related to claimant's pre-existing breast cancer (in remission). Dr. Beck, with Highlands Oncology Group, has offered the medical opinion that the arm injury is worked related and not related to the claimant's past cancer treatment.

The respondent contends the claimant's left shoulder and arm problems do not meet the definition of a compensable injury.

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 December 9, 2020 and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. The parties' stipulation that claimant earned sufficient wages to entitle her to compensation at the rates of \$388.00 for total disability benefits and \$291.00 for permanent partial disability benefits is also hereby accepted as fact.

3. Claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury to her left upper extremity on July 28, 2020.

### FACTUAL BACKGROUND

The claimant is a 63-year-old high school graduate. Approximately fourteen years ago, claimant was treated by Dr. Beck for breast cancer. His treatment included removal of lymph nodes as well as radiation and chemotherapy. According to Dr. Beck's note of September 22, 2020, claimant was thirteen years recovered from her breast cancer diagnosis.

Claimant testified that she was currently employed at the respondent running the "three-quarter inch parts machine. It is two machines." Claimant testified that she primarily fed parts by hand into the machine, worked controls, checked parts, and gauged parts. She testified that she had been in this position for approximately two years.

Claimant testified that on July 27, 2020 [according to the pre-hearing order the correct date is July 28, 2020] she was packing some parts into a box when she felt a

sharp pain in her left arm. Claimant testified that she reported this incident to Janet Davis, the lead for her department. Claimant continued her work day and testified that when she got home there was a little bit of discomfort but no swelling was present. Claimant testified that the next day she had pain which she would rate at about an 8 and that swelling was also present in her left arm with her arm about twice its normal size. She testified that she reported this to her supervisor, Carl Bacino.

Claimant did not request medical treatment from the respondent and on her own sought medical treatment from Kelly Hardin, APRN at Mission Family Practice. Hardin's supervising physician is Dr. Mark Bonner, claimant's primary care physician. Hardin's report of July 31, 2020 indicated that claimant presented for soft tissue swelling with an onset of four days earlier. The history also notes that claimant had lymph nodes removed due to breast cancer 13 years ago and this is the first time she had swelling in her arm. Hardin diagnosed claimant's condition as localized edema with a differential diagnosis of lymphedema. Hardin prescribed medication and gave claimant a compression sleeve to wear.

On August 17, 2020, claimant returned and was evaluated by Dr. Bonner. Dr. Bonner noted that the severity of claimant's swelling was unchanged and he ordered an MRI scan of the claimant's upper extremity.

Before claimant underwent the MRI scan, she was evaluated by Dr. Jeffrey Johnson at the respondent's request for left arm swelling. Dr. Johnson diagnosed claimant as suffering from swelling of the left upper limb and noted that she had a history of breast cancer with a positive lymph node dissection and he recommended she return to see her oncologist, Dr. Beck. He also referred claimant to Dr. Heinzelmann, orthopedic

surgeon, and recommended that claimant undergo an MRI scan of her left shoulder.

Claimant underwent the MRI scan of her left shoulder on September 8, 2020, with the following findings:

**IMPRESSION:**

1. MODERATE ARTHROSIS OF THE ACROMIOCLAVICULAR JOINT WITH MARROW EDEMA AND SYNOVIAL THICKENING AND ENHANCEMENT.
2. NO EVIDENCE OF A ROTATOR CUFF TEAR.

Following the MRI scan claimant was evaluated by Dr. Heinzelmann on September 11, 2020. Dr. Heinzelmann diagnosed claimant as suffering from left shoulder impingement and left upper extremity lymphedema. Dr. Heinzelmann prescribed physical therapy and further stated that in his opinion the claimant's lymphedema was not related to her left shoulder impingement.

Thereafter, claimant was evaluated by Dr. Beck at Highlands Oncology Group on September 22, 2020. Dr. Beck indicated in his report that there was no evidence of cancer and in his opinion the claimant's left arm pain and swelling was due to an on the job injury. He recommended that the claimant return to his clinic as needed.

Thereafter, claimant underwent physical therapy at Highlands Oncology Group for her lymphedema. The physical therapy primarily consisted of compression bandaging for her left upper extremity. Claimant's last visit with physical therapy occurred on December 28, 2020.

Claimant has filed this claim contending that she suffered a compensable injury to her left upper extremity on July 28, 2020. She seeks payment of related medical benefits as well as temporary total disability benefits from November 30, 2020 through January 4,

2021, as well as a controverted attorney fee.

### ADJUDICATION

Claimant contends that she suffered a compensable injury to her left upper extremity as a result of packing some parts into a box on July 28, 2020. Claimant's claim is for a specific injury identifiable by time and place of occurrence. In order to prove a compensable injury as the result of a specific incident that is identifiable by time and place of occurrence, a claimant must establish by a preponderance of the evidence (1) an injury arising out of and in the course of employment; (2) the injury caused internal or external harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings establishing an injury; and (4) the injury was caused by a specific incident identifiable by time and place of occurrence. *Odd Jobs and More v. Reid*, 2011 Ark. App. 450, 384 S.W. 3d 630.

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. Claimant has been diagnosed as suffering from both shoulder impingement and lymphedema. I do not find that she has proven that either of those conditions is related to an incident on July 28, 2020. Initially, I note claimant's testimony on cross examination regarding this incident.

Q. On this specific day when you were lifting this box that weighed 10 or 12 pounds, you felt this pain in your arm; correct?

A. Correct.

Q. You have testified here today that you never felt that before; correct?

A. Correct.

Q. That pain lasted for about five minutes; right?

A. Correct.

Q. Okay. Then it went away?

A. Correct.

Q. And you never felt it again?

A. I did not.

Q. And you didn't have any more problems with your arm until the next morning when you woke up and got ready to go to work and your arm was swollen from the elbow down.

A. Correct.

Q. Correct?

A. Correct.

Q. And you have been diagnosed with lymphedema; correct?

A. Yes.

In addition, I note that claimant did not request any medical treatment from respondent, but instead sought medical treatment on her own from her primary care physician's clinic where she was evaluated by Kelly Hardin, APRN, on July 31, 2020. Hardin's report does indicate that claimant's tissue swelling had begun four days previously, but there is no mention of any work-related accident in Hardin's report. Thereafter, claimant sought medical treatment from her OB-GYN, Dr. Paige Partridge, for a pelvic prolapse on August 11, 2020. In the course of that evaluation, claimant also

complained of the swelling in her left arm. Dr. Partridge noted that claimant's pain had begun three weeks ago with swelling in the upper forearm and had slowly begun to move down her arm into her fingers. Again, there is no mention of any work-related injury in Dr. Partridge's medical report.

Finally, claimant was evaluated by Dr. Bonner on August 17, 2020, at which time he noted that claimant's swelling was moderate and unchanged. Again, there is no mention of claimant relating her problems to any work-related injury.

The first mention of any potential work-related injury is contained in a history in Dr. Johnson's report of August 26, 2020, which is almost one month after July 28. Based upon her complaints, Dr. Johnson ordered an MRI scan and referred claimant to Dr. Heinzelmann. Dr. Heinzelmann is an orthopedic surgeon who evaluated the claimant on September 11, 2020. He diagnosed claimant as suffering from left shoulder impingement and left upper extremity lymphedema. It was Dr. Heinzelmann's opinion that claimant's swelling was not related to any shoulder impingement.

In my experience this is not a typical presentation for shoulder impingement and AC joint arthrosis. The patient reports that she has not had lymphedema in the left upper extremity until this work injury. It is certainly possible that there could be some relationship however this is not something I have seen in my practice. Possibly following up with oncology there could be some further insight into this.

In my professional opinion by more than 51% her left shoulder findings on her MRI with in my opinion impingement issues are not a traditional cause of lymphedema. Her shoulder pain symptoms and findings are most consistent with repetitive use of the left upper extremity.



With regards to her lymphedema in my opinion more than 51% is not related to her left shoulder impingement.

Thus, it is Dr. Heinzelmann's opinion that claimant's swelling is not related to any shoulder impingement. Furthermore, with respect to the shoulder impingement, Dr. Heinzelmann stated that claimant's findings were most consistent with repetitive use of the left upper extremity. However, claimant is not contending that she had a repetitive use injury to her left shoulder, but instead contends that her left upper extremity complaints are the result of a specific incident on July 28, 2020. A repetitive use injury would require claimant to prove that her injury was caused by rapid repetitive motion.

Finally, it should be noted that Dr. Beck did indicate in his report of September 22, 2020 that claimant did not have cancer and he attributed claimant's left arm pain and swelling to an on the job injury. While Dr. Beck is an oncologist and a specialist in that area, Dr. Heinzelmann, likewise, is a specialist in orthopedics. It was the opinion of Dr. Heinzelmann that claimant's lymphedema is not related to her shoulder. I find that the opinion of Dr. Heinzelmann is credible and entitled to great weight.

In short, claimant has the burden of proving by a preponderance of the evidence that she suffered a compensable injury to her left upper extremity on July 28, 2020. Claimant has been diagnosed as suffering from shoulder impingement as well as lymphedema. I do not find that either of those diagnoses are causally related to a work-related injury on July 28, 2020. According to Dr. Heinzelmann, claimant's lymphedema is not causally related to her shoulder impingement. Furthermore, with respect to the shoulder impingement, it was his opinion that those findings are consistent with a

repetitive use of the left upper extremity. Here, claimant is not alleging a repetitive use injury but instead is alleging a specific injury. I find that she has failed to prove by a preponderance of the evidence that she suffered a compensable injury to her left upper extremity on July 28, 2020.

ORDER

Claimant has failed to meet her burden of proving by a preponderance of the evidence that she suffered a compensable injury to her left upper extremity on July 28, 2020. Therefore, her claim for compensation benefits is hereby denied and dismissed.

Respondent is responsible for paying the court reporter her charges for preparation of the hearing transcript in the amount of \$437.50.

IT IS SO ORDERED.

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GREGORY K. STEWART  
ADMINISTRATIVE LAW JUDGE