

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H001165

WILL HILL, EMPLOYEE	CLAIMANT
COOPER TIRE & RUBBER COMPANY, EMPLOYER	RESPONDENT
CENTRAL ADJUSTMENT COMPANY, INC., INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED APRIL 14, 2021

Upon review before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant represented by the HONORABLE PAUL MILLER, Attorney at Law, Texarkana, Texas.

Respondents represented by the HONORABLE KAREN H. McKINNEY, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of the Administrative Law Judge filed November 30, 2020. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. I hereby accept the aforementioned stipulations as fact.
3. This claim is not barred by the statute of limitations.
4. The Claimant had no knowledge that his condition arose out of his work, and therefore is excused for failure to give notice prior

to his initial treatment with Dr. Smith, this includes, but is not limited to the EMG and nerve conduction studies.

5. The Claimant proved by a preponderance of the evidence that he sustained bilateral carpal tunnel while working for the respondent-employer/Cooper Tire Company.
6. The Claimant proved by a preponderance of the evidence, his entitlement to temporary total disability benefits from August 23, 2019, through September 8, 2019; and from October 4, 2019 until October 19, 2019.
7. The Claimant has established by a preponderance of the evidence that all of the medical treatment of record is reasonably necessary to treat compensable bilateral carpal tunnel syndrome.
8. The Claimant's attorney is entitled to a controverted attorney's fee on the indemnity benefits awarded herein.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative

Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2012).

For prevailing on this appeal before the Full Commission, claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. § 11-9-715(Repl. 2012). For prevailing on appeal to the Full Commission, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. § 11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Palmer dissents.

DISSENTING OPINION

I respectfully dissent from the majority because I find the statute of limitations bars Claimant's claim.

Under §11-9-702(a), a claimant has two years from the date of a compensable injury to file a claim for compensation. For scheduled injuries, the statute of limitations begins to run when it becomes apparent to the claimant that she or he has been injured. *See, e.g., Minnesota Mining &*

Manufacturing v. Baker, 337 Ark. 94, 989 S.W.2d 151 (1999). In *Pina v. Wal-Mart Stores*, 91 Ark. App. 77, 208 S.W.3d 236 (2005), the court clarified that the statute of limitations for carpal-tunnel claims begins to run when an injury becomes apparent to the claimant.

Here, Claimant testified that he knew as early as 2014 or 2015 that he had some type of injury. In June 2017, Claimant began seeking medical treatment for what was eventually diagnosed as carpal tunnel syndrome. Given these facts, Claimant had – at the latest – until June 2018 to file his claim. Claimant filed his claim February 26, 2020.

I would find that Claimant did not file his claim within the statute of limitations period and, therefore, it is untimely. Accordingly, I respectfully dissent from the majority.

CHRISTOPHER L. PALMER, Commissioner