

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H107194

JULIE INTHASONE, Employee	CLAIMANT
1 st EMPLOYMENT STAFFING, LLC, Employer	RESPONDENT
ZURICH AMERICAN INSURANCE COMPANY, Carrier	RESPONDENT

OPINION FILED NOVEMBER 16, 2022

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

Claimant appearing *pro se*.

Respondents represented by ERIC NEWKIRK, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On November 2, 2022, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on July 20, 2022 and a pre-hearing order was filed on that same date. 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, 2021.
3. Respondents have controverted this claim in its entirety.

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

1. Compensability of injuries to bilateral lower extremities including knees, feet, and ankles.
2. Related medical.
3. Temporary total disability benefits from July 28, 2021 through a date yet to be determined.

At the time of the hearing the parties agreed to add claimant's average weekly wage as an issue to be litigated.

The claimant contends she suffered a compensable injury as a result of standing on her feet resulting in injuries to her bilateral lower extremities. She requests related medical and temporary total disability from July 28, 2021 through a date yet to be determined.

The respondents contend that the claimant did not sustain a compensable injury of any kind to her feet, ankles, knees or lower extremities on or about July 28, 2021. The claimant has asserted a gradual onset injury, and the respondents contend that the claimant's job duties were in no way rapid and repetitive in connection with her lower extremities. Moreover, the respondents are unaware of any objective medical findings to support compensability. Alternatively, to the extent any objective medical findings even did exist, the findings would have no causal connection to the claimant's employment as opposed to the claimant's non-work related health issues or comorbidities. Thus, by way of further defense, the respondents contend the claimant cannot meet the "major cause" requirement necessary for compensability in connection with her alleged gradual onset claim. By way of an alternative contention, the respondents plead an offset for any group medical insurance or group short-term disability benefits paid to the claimant or on her

behalf. Respondents assert an offset for any unemployment benefits paid to the claimant, to the extent allowed under Arkansas law.

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 July 20, 2022 and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. Claimant has failed to meet her burden of proving by a preponderance of the evidence that she suffered compensable injuries to her bilateral lower extremities including her knees, feet, and ankles.

FACTUAL BACKGROUND

The claimant is a 40-year-old woman who has an Associate's Degree and is currently working on a Bachelor's Degree. Claimant testified that while working for respondent she was primarily assigned to perform jobs in various warehouses.

Claimant testified that at one point she was sent to a warehouse at TRG where her job duties required her to clean EarPods. Claimant testified as follows with regard to her injury:

THE CLAIMANT: Well, my duty was to clean up EarPods, so I was standing in one spot at the station on my feet. So, basically, I am on my feet cleaning the product there all day until my next break, which I had like three breaks, so . . .

And the only time I would move is just to go to the breaks or getting cleaning products or more products that I need to clean.

THE COURT: And what happened?

THE CLAIMANT: So, just standing in one place, like it causes swelling. You know, I guess my blood like ran down there or something, so just basically being on my feet all day.

Claimant testified that she reported these problems to the respondent and sought medical treatment.

Claimant has filed this claim contending that she suffered compensable injuries to her bilateral lower extremities including her knees, feet, and ankles.

ADJUDICATION

Claimant contends that she suffered compensable injuries to her bilateral lower extremities including her knees, feet, and ankles. Claimant testified that these problems began while she was standing in one spot for most of the day cleaning EarPods at a warehouse after having been assigned to work there by the respondent. Respondent contends that claimant's claim is for a gradual onset injury as opposed to a specific incident identifiable by time and place of occurrence.

Regardless of whether claimant's alleged injury is considered a specific injury or a gradual onset injury, a compensable injury must be established by medical evidence

supported by objective findings. A.C.A. §11-9-102(4)(D). “Objective findings” are those findings which cannot come under the voluntary control of the patient. A.C.A. §11-9-102(16)(A)(i).

In this particular case, no medical evidence was submitted; therefore, there is no medical evidence supported by objective findings establishing an injury to claimant’s bilateral lower extremities which would include her knees, feet, and ankles. Absent medical evidence supported by objective findings establishing an injury to her bilateral lower extremities, claimant cannot meet her burden of proving by a preponderance of the evidence that she suffered a compensable injury.

Accordingly, I find that claimant has failed to meet her burden of proving by a preponderance of the evidence that she suffered a compensable injury to her bilateral lower extremities.

ORDER

Claimant has failed to prove by a preponderance of the evidence that she suffered compensable injuries to her bilateral lower extremities while employed by respondent. 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 \$260.95.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE