

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H206533

**TIMOTHY PATTERSON,
EMPLOYEE**

CLAIMANT

**M. E. TRANSPORT, LLC,
EMPLOYER**

RESPONDENT

**CAROLINA CASUALTY INSURANCE COMPANY,
INSURANCE CARRIER/TPA**

RESPONDENT

OPINION FILED NOVEMBER 27, 2024

Hearing held before ADMINISTRATIVE LAW JUDGE CHANDRA L. BLACK, Little Rock, Pulaski County, Arkansas.

Claimant presented by the Honorable Gary Davis, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the Honorable Karen H. McKinney, Attorney at Law, Little Rock, Arkansas.

Statement of the Case

On April 10, 2024, the above-captioned claim came on for a hearing in Little Rock, Arkansas. A Prehearing Telephone Conference was conducted in the above-styled claim on April 10, 2024, from which a Prehearing Order was filed on that same day. A copy of said order and the parties' responsive filings have been marked as Commission's Exhibit 1 and made a part of the record without objection.

Stipulations

During the prehearing telephone conference, and/or hearing, the parties agreed to the following proposed stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. That the employee-employer-carrier relationship existed at all relevant times, including on or about August 24, 2022, when the Claimant alleges to have sustained compensable injuries because of a work-related motor vehicle accident.
3. The Respondents have controverted this claim in its entirety.
4. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

Issues

By agreement of the parties, the issues to be litigated at the hearing included the following:

1. Whether the Claimant sustained multiple compensable injuries because of a work-related motor vehicle accident, or if the Claimant sustained idiopathic injury.
2. Whether the Claimant is entitled to reasonable and necessary medical treatment.
3. Whether the Claimant is entitled to temporary total disability compensation from August 25, 2022, to a date in the future.
4. Whether the Claimant's attorney is entitled to controverted attorney's fee.

Contentions

The respective arguments of the parties are as follows:

Claimant: At the beginning of the hearing, counsel for the Claimant stated that the primary injuries were to the Claimant's foot, leg, and the knee mostly on the left.

The Claimant contends that he sustained multiple compensable injuries on or about August 24, 2022. The Claimant contends that he is owed temporary total disability benefits beginning with the last date of compensation and continuing through a date yet to be determined. Medical expenses have been incurred and remain outstanding. The Claimant was also scheduled for a hardware removal from his foot July 18, 2023, but has not yet received authorization. These matters have been controverted for purposes of attorney's fees.

Respondents:

Respondents contend that the Claimant did not sustain a compensable injury under the Workers' Compensation Act for which he is entitled to benefits. Specifically, the Respondents contend that Claimant's injuries are idiopathic from a condition that is personal in nature to the Claimant and therefore did not arise out of and in the course of his employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on my review of the record as a whole, to include the aforementioned documentary evidence, other matters properly before the Commission, and after having had an opportunity to hear the testimony of the Claimant and observe his demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. I hereby accept the above-mentioned proposed stipulations as fact.
3. The preponderance of the evidence proves that the Claimant's work related incident of August 24, 2022, was the result of an idiopathic condition, and did not arise out of and in the course of his employment.

4. All other issues have been rendered moot and not discussed in this opinion.

Summary of Evidence

Mr. Timothy Patterson (referred to herein as the “Claimant”), was the only witness to testify during the hearing.

The record consists of the June 19, 2024 transcript and the following exhibits: Specifically, Commission’s Exhibit 1 includes the Commission’s Prehearing Order filed on April 10, 2024; Claimant Medical Exhibit consisting of one hundred and nine(109) pages was marked as Claimant’s Exhibit 1; Claimant’s Supplemental Documentary Exhibit consisting of fifteen(15) pages was marked as Claimant’s Exhibit No. 2; and Respondents’ Exhibit 1 comprises of Respondents’ Medical exhibit consisting of eighty-one (81) pages.

The following exhibits were proffered by the parties have not been considered in this opinion: Claimant proffered Exhibit 3 is the Claimant’s Deposition taken on September 6, 2023. It is retained in the Commission’s files; and Respondents proffered Respondents’ Exhibit 2, the Traffic Crash Report consisting of twelve (12) pages.

The parties’ respective responsive filings were inadvertently left out of the hearing transcript, these pleadings have been blue-backed and marked as Commission’s Exhibit 2.

Testimony

Mr. Timothy Patterson, Claimant

The Claimant is 61 years of age. He has a high school education. The Claimant has been a truck driver for approximately 30 years. Most of his trucking career has entailed over-the-road truck driving. The Claimant confirmed that he was employed with M.E. Transport when he was involved in an accident on August 24, 2022. His accident happened in California. He confirmed that his left foot, ankle, leg, and knee were injured in the accident. However, the

Claimant denied having any problems with his upper extremities/arms. He confirmed that all the injuries were to his left lower extremity. The Claimant further confirmed that he underwent two surgeries while in California.

Following his surgeries, the Claimant came under the care of Dr. Ardoin at OrthoArkansas. The Claimant confirmed that Dr. Ardoin performed surgery as well. As of the date of the hearing, the Claimant had not been released to return to work by Dr. Ardoin or any other doctor. He confirmed that he has not received medical treatment from any other doctors. However, the Claimant was transported to the Loma Linda Hospital immediately following his accident. Per the Claimant, he was in Baker California going through a construction zone on I-5 when his accident occurred. The Claimant testified that he had cleared the construction zone and the next thing he recalls is a lady saying to him, "Just stay still. I gotta strap you up to a gurney and life-flight you to Loma Linda." He specifically testified that he had cleared the construction zone but does not remember anything else. According to the Claimant, the next thing he remembers is being strapped on the gurney.

The Claimant confirmed that he has been treated for health issues prior to this accident dating back to 2014 and continuing thereafter. He admitted that he has continued to follow up with his doctor once or twice a year to receive medications for high cholesterol and high blood pressure. The Claimant admitted that he has undergone some testing on his carotid arteries to determine whether he has plaque or blockage of his arteries. Dr. Thaxton is the Claimant's primary treating physician in this regard. The Claimant admitted that he had been receiving treatment for TIA's before his accident happened. This treatment occurred in May 2022, and continued into June 2022.

He confirmed that to drive a truck, he must pass a DOT physical. The Claimant admitted that typically he would have to do a physical every two years to drive before having to do another physical. However, due to the Claimant's conditions, his physical examinations were done yearly. He agreed that within the time frame of his accident in August of 2022 and August 2021, he had a DOT physical. The Claimant testified that he had worked for ME Transport for about two years before his accident took place.

Regarding his treatment for his accident, the Claimant agreed that he is continuing to see Dr. Ardoin. The Claimant last underwent evaluation by Dr. Ardoin three months ago. He confirmed that he continues to have problems with his left leg. The Claimant testified that he has symptoms of numbness and swelling in his foot. He testified that under his current condition, he could possibly drive an automatic truck. However, the Claimant agreed that he has not been released to return to work.

On cross-examination the Claimant confirmed that the Respondents took his deposition about a year ago. At that time, the Claimant had just recently had surgery with Dr. Ardoin to remove some hardware. The Claimant agreed that after his surgery he had some follow-up appointments with Dr. Ardoin and/or his nurse practitioner.

Under further examination, the Claimant was questioned about an exhibit starting at page 105, which shows he was seen at the midtown clinic at OrthoArkansas under the care of Danielle Lindley, the nurse practitioner. Per this document, the Claimant was seen on February 2, 2024. At that time, after the nurse examined the Claimant, she stated that he had healed from the arthrodesis. The nurse also stated that the Claimant was doing well. However, the nurse recommended that the Claimant continue to massage his heal and showed him how it should be done. The nurse also told the Claimant to continue to perform activities as tolerated. The

Claimant admitted that he was not given any restrictions and was told to return to the clinic as needed.

The Claimant was asked about what he had been doing on the day of the accident. He confirmed that he was in Salinas, California. He confirmed that he traveled from Salinas to East Los Angeles/LA because he had some work to do there. Per the Claimant, his truck was loaded up, but he did not have to do the physical part of this work. However, once this was taken care of in LA, the Claimant started heading back home. The Claimant admitted that it was his intention to stop in Barstow, but he never made it there. He admitted that his accident occurred around 1:30 a.m. or 1:45 a.m., while going through a construction zone. The Claimant admitted that he was driving at night, into early morning. He further admitted that during his deposition, he was asked, "What do you think happened?" The Claimant confirmed that he replied, "I blacked out."

The Claimant admitted that he testified during his deposition that he has no suspicion as to what happened, or why things just went blank. He denied having fallen asleep. However, the Claimant agreed that he testified during his deposition that, "*I think I probably passed out.*" He also admitted to having testified: "*Everything just went black, blank on me.*"

He admitted he has had high blood pressure and high cholesterol dating back ten (10) years. The Claimant testified that he had been seeing Dr. Dylan Thaxton for at least six or seven years before they shut his office down this year. Although in 2014, the Claimant reported to Dr. Thaxton that he had *a sensation of what felt like shades/curtains coming down and a loss of vision with squiggly lines*, he did not recall having told him that. The Claimant confirmed that a 2014 report from Dr. Thaxton reads, "Going down -- driving down the road and then got a black haze, squiggly lines, black haze." "Black haze in my left eye and then going to the right

eye.” He further confirmed having told Dr. Thaxton that this started a couple of years ago. As a result, in 2014, Dr. Thaxton sent the Claimant for a Doppler study of his carotid arteries. The Claimant denied undergoing Doppler study every two thereafter although this is what is stated in the medical records.

The Claimant admitted that he testified during his deposition that he had stopped smoking about thirteen (13) weeks prior to his deposition. He confirmed that prior to his last surgery with Dr. Ardoin, he has not smoked. The Claimant agreed that at the time of his accident, he was a heavy smoker (at least a pack and a half a day smoker). The Doppler studies showed that the Claimant had carotid artery blockage or occlusion, but not complete blockage. He admitted that he continues to need medication for high blood pressure and high cholesterol.

The Claimant admitted that he saw Dr. Thaxton on May 16, 2022, which was three months before his work accident. The following exchange took place:

Q All right. And you told Dr. Thaxton at that time, you were there because you had an episode last week while driving, your right arm went numb, right side of face drooped, and you were drooling, and you had slurred speech. Do you remember going to the doctor for that?

A Yes.

He admitted that Dr. Hackler took him off work for thirty (30) days and had him on a heart monitor. However, the Claimant was given the approval to go back to work. The Claimant admitted that he had told Dr. Thaxton about the experience he had back in May and that it was not the first time he had experienced something of this nature. He admitted that he had a similar experience on the left side about seven months before that. The Claimant admitted that he testified in his deposition that he was at a truck stop when this occurred. At that time, the Claimant’s left arm went numb, and he was slurring his speech. He admitted that he had trouble walking back to his truck but maintained everything cleared up.

Further questioning, the following exchange took place:

Q All right. And you told me also in your deposition that you had mini strokes.

A I have had mini strokes.

Q And you had these before the accident in August of 2022, correct?

A Correct.

Q All right. And in this same report you also told Dr. Thaxton that you had episodes of you'd get dizzy and see spots while you were walking. You told him that was happening. Right?

A Yes.

Q All right. And are you aware that Dr. Thaxton assessed you as having had a transient ischemic attack, a T.I.A., at that point and time?

A I don't know what you call it, but yes.

The Claimant admitted that they Dr. Thaxton ordered some tests, but they do not really provide an answer for what is going on. According to the Claimant, he would have episodes of numbness in his arm, facial drooping, and slurred speech out of the blue/unexpectedly. He admitted that in January of 2023, he was at home and his girlfriend had to call an ambulance because he was just "starring off" and not responsive. However, the Claimant admitted he does not have any memory of what was going on while he was in his home starring off. Per the Claimant, all he knows is that he was having a seizure, from what he had been told. The Claimant admitted that he injured his left leg in the accident, foot, leg, and knee.

Adjudication

Compensability

Act 796 of 1993, as codified at Ark. Code Ann. § 11-9-102(4)(A)(i) (Repl. 2012), provides, in pertinent part:

(A)"Compensable injury" means:

(4)(i) An accidental injury causing internal or external physical harm to the body... arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is “accidental” only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D) (Repl. 2012). “Objective findings,” are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. § 11-9-102(16)(A)(i) (Repl. 2012).

The Claimant has the burden of proving that he sustained a compensable injury. Ark. Code Ann. § 11-9-102(4) (E)(i). Preponderance of the evidence means the evidence that has greater weight or convincing force. *Metropolitan Nat’l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003).

The Claimant must prove a compensable injury. Ark. Code Ann. § 11-9-102(4)(E) (Repl. 2012). A compensable injury is one arising out of and in the course of employment. Ark. Code Ann. § 11-9-102(4)(A)(i). To prove a compensable injury, he must show by a preponderance of the evidence a causal relationship between his employment and the injury with medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D).

When an employee sustains an “unexplained” injury at work, the injury is compensable. By contrast, when an employee sustains an “idiopathic” injury at work, the injury is generally, not compensable because the injury is personal in nature, and therefore does not arise out of and in the course of the employment. *See generally, Little Rock Convention Visitors Bureau v. Pack*, 60 Ark. App 82, 959 S.W. 2d 415 (1997).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, based on the current evidence before me, I find that the Claimant did not prove by a preponderance of the credible evidence that he sustained a compensable injury.

In the case at bar, the Claimant has an extensive medical history of episodes of seizure like occurrences. He has had several mini strokes and TIA's. His testimony demonstrates that the Claimant has had events of memory loss and not being able to recall pre-seizure events. The Claimant has well known health issues, particularly that of known reporting by his doctors of ischemic attacks. The Claimant admitted that he has had multiple mini strokes prior to this accident in August of 2022. In fact, the Claimant has a long-standing history of continuing treatment for high cholesterol and high blood pressure dating back a decade prior to his accident. He admitted that at the time of his accident he was a heavy smoker dating back several years before his accident. For these reasons, I am not persuaded that the Claimant's accident is an unexplained injury.

Specifically, at the time, of the Claimant's accident, he was driving in California, through a construction zone. He was no longer within the barrels and was at the highway where north from south is divided by a concrete barrier. It is established by the Claimant's own testimony that he "blacked out." This was a one-vehicle accident. Most specifically, there were other trucks or vehicles on the road in front of him, beside him, or behind him during the accident. The weather conditions were good, and the roads were clear. No evidence whatsoever has been presented here to indicate that there was any problem whatsoever with the Claimant's truck. Something happened to the driver, which caused the accident. Such accident happened because of driver error, which resulted from the Claimant most likely having blacked out while driving. As noted above, the evidence clearly demonstrates that the Claimant was known to have seizures. The aforementioned conditions and events have led to my conclusion the Claimant's work-related accident is not unexplained. This injury was something personal in nature that happened to the Claimant. The Claimant was aware that he was having syncope

episodes, wherein “everything would go black.” He also had episodes of TIA’s prior to his accident of August 2022. Here, the evidence clearly proves that the Claimant experienced idiopathic seizures and mini strokes which is not directable attributable his workplace truck accident. Also, just months prior to his accident, the Claimant experienced an episode of his left arm going numb, accompanied by slurring his speech, but this cleared up on its own. Additionally, the Claimant admitted that Doppler studies showed that the Claimant had carotid artery blockage or occlusion, but not complete blockage. Here, the Claimant was well aware of his idiopathic conditions of “blacking out” that would arise spontaneously without a direct cause.

Therefore, after consideration of all the evidence before me, I find that the Claimant has failed to meet his burden on proof of a compensable injury. Specifically, the evidence preponderates that the Claimant’s injury is idiopathic and not compensable because the injury is personal in nature, and therefore did not arise out of and in the course of the Claimant’s employment. Hence, the Claimant did not sustain a compensable injury on August 24, 2022, when he was involved in a one-motor vehicle accident. Therefore, this claim is denied and dismissed

ORDER

The Claimant has failed to prove by a preponderance of the credible evidence that he sustained a compensable work injury on August 24, 2022, while performing employment duties for the respondent-employer/ME Transport as a truck driver. The Claimant sustained an idiopathic injury during his one-motor vehicle accident. Therefore, this claim is hereby respectfully denied and dismissed in its entirety. All other issues have been rendered moot and discussed herein this Opinion.

IT IS SO ORDERED.

CHANDRA L. BLACK
ADMINISTRATIVE LAW JUDGE