

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H401004

MARTHA ALCANTAR, Employee	CLAIMANT
KENNAMETAL, INC., Employer	RESPONDENT
SENTRY INSURANCE COMPANY, Carrier	RESPONDENT

OPINION FILED OCTOBER 7, 2024

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

Claimant appearing *pro se*.

Respondents represented by JARROD S. PARRISH, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On September 25, 2024, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on July 31, 2024 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 at all relevant times.

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

1. Compensability of carpal tunnel syndrome.

2. Related medical.

3. Temporary total disability benefits from January 7, 2024 through a date yet to be determined.

4. Statute of limitations.

5. Compensation rates.

6. Credit for disability benefits.

At the time of the hearing respondent reserved the issue of its entitlement to a credit for disability benefits paid to claimant for short/long term disability.

The claimant contends that she was working one job doing the same job everyday for over ten years which led to severe carpal tunnel syndrome.

The respondents contend they have not been presented with evidence establishing the existence of a work-related injury (specific incident or gradual onset). The statute of limitations has run on claimant's claim pursuant to *Cottage Café v. Collette*, 94 Ark. App. 72, 226 S.W. 3d 27 (2006) and *La-Z-Boy Manuf. v. Bruner*, 2016 Ark. App. 117, 484 S.W. 3d 700 (2016).

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 31, 2024 and contained in a pre-hearing order filed that same date are hereby

accepted as fact.

2. Claimant's claim for compensation benefits is barred by the statute of limitations. A.C.A. §11-9-702(a)(1).

FACTUAL BACKGROUND

Claimant testified that she believes she began working for respondent on July 16, 2006. She initially worked as a machine operator and for the last ten years worked in an inspection area. At some point the claimant began having problems with both her hands and sought medical treatment from her primary care physician, Dr. Cheryl Fulton.

Dr. Fulton initially treated claimant with medication and occupational therapy before referring her to Dr. Johnson for an EMG/NCV study. That testing was positive for bilateral carpal tunnel syndrome. According to claimant's testimony, she underwent surgery on her right wrist on June 24, 2024.

Claimant has filed this claim contending that she suffered a compensable injury in the form of bilateral carpal tunnel syndrome. She seeks payment of related medical benefits as well as temporary total disability benefits beginning January 7, 2024, and continuing through a date yet to be determined. Also at issue is the claimant's correct compensation rate and respondent has raised as an issue the statute of limitations.

ADJUDICATION

Claimant contends that she suffered a compensable injury in the form of bilateral carpal tunnel syndrome as a result of her job activities with the respondent. A claimant requesting workers' compensation benefits for a gradual-onset injury must prove by a preponderance of the evidence (1) the injury arose out of and in the course of her

employment; (2) the injury caused internal or external physical harm to her body that required medical services or resulted in disability or death; and (3) the injury was the major cause of the disability or need for treatment. A.C.A. §11-9-102(4)(A)(ii) and (E)(ii). Because carpal tunnel syndrome is by definition a gradual onset injury, it is not necessary that claimant prove that this injury was caused by rapid repetitive motion. See *Kildow v. Baldwin Piano & Organ*, 333 Ark. 335, 969 S.W. 2d 190 (1998).

Here, respondent contends that claimant's claim for bilateral carpal tunnel syndrome is barred by the statute of limitations. A claim for compensation for disability on account of an injury shall be barred unless filed with the Commission within two years from the date of the compensable injury. A.C.A. §11-9-702(a)(1). The statute of limitations for gradual onset injuries, such as carpal tunnel syndrome, begins to run when the injury becomes apparent to the claimant. *La-Z-Boy Mfg., Inc. v. Bruner*, 216 Ark. App. 117, 484 S.W. 3d 700; *Pina v. Wal-Mart Stores, Inc.*, 91 Ark. App. 77, 208 S.W. 3d 236 (2005); and *Cottage Café, Inc. v. Collette*, 94 Ark. App. 72, 226 S.W. 3d 27 (2006). The claimant's awareness that her injury is causally related to the working environment is not an element of the inquiry. *Pina*, 91 Ark. App. at 85, 208 S.W. 3d at 240.

Claimant admitted on cross examination that she was aware at the end of 2021 that she had problems with her hands and she related those problems to her work.

Q By the end of 2021, you had recognized in your mind that you had problems with both of your hands that you were feeling were work-related; right?

A Correct.

Q And it is true that the symptoms you told me about in your deposition and that you told us about here today were present back in late 2021?

A Yes. Yes.

Q So by the time you developed symptoms in both hands at the end of 2021, you were thinking it was related to work? You recognized it was related to work?

A Yes.

Q One last time, you agree you were aware of your condition in both hands as of November 2021; correct?

A Yes.

Q And you were attributing your problem to work at Kennametal at that time?

A Yes.

Even though claimant was aware of the problems with her hands in late 2021 and she attributed those problems to her work activities with the respondent, claimant did not file a claim for workers' compensation benefits until Form AR-C was filed by Attorney Mark Peoples on claimant's behalf on April 8, 2024. (An Order granting Mr. Peoples' Motion to Withdraw was entered by the Full Commission on May 23, 2024.) Clearly, this is more than two years after the injury became apparent to the claimant. Since more than two years had passed, claimant's claim is barred by the statute of limitations.

Accordingly, for the foregoing reasons, I find that claimant's claim for compensation benefits is barred by the statute of limitations. Claimant's injury became apparent to her in late 2021 when she had problems with her hands and attributed those problems to her work activities with the respondent. However, claimant did not file a

workers' compensation claim until April 8, 2024, more than two years later.

ORDER

Claimant's claim for compensation benefits is barred by the statute of limitations. Therefore, her claim for compensation benefits is hereby denied and dismissed.

Respondent is liable for payment of the court reporter's charges for preparation of the hearing transcript in the amount of \$379.50.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE