

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H207576

WILLIE HINTON,
EMPLOYEE

CLAIMANT

B H I ENERGY, INC.,
EMPLOYER

RESPONDENT

SEDGWICK CLAIMS MANAGEMENT
SERVICES, INC., INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED FEBRUARY 5, 2025

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

Claimant is *Pro Se*.

Respondents represented by the HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The respondents appeal an administrative law judge's opinion filed August 22, 2024. The administrative law judge found that the claimant proved he was entitled to temporary total disability benefits beginning December 20, 2023. After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove he was entitled to additional temporary total disability benefits.

I. HISTORY

The testimony of Willie Hinton, now age 58, indicated that he had formerly been employed with the respondents, BHI Energy, Inc. Mr. Hinton

testified that he disassembled nuclear reactors for the respondent-employer. The parties stipulated that the employee-employer-carrier relationship existed on or about October 10, 2022. The claimant testified that he was working for the respondent-employer at Arkansas Nuclear One Power Station. The claimant contended that he sustained a work-related injury on October 11, 2022. The claimant testified, "We were moving – lifting and moving various equipment, camera equipment, hoses, things like that. I felt a pop in my hand." According to the record, the claimant treated at Central Arkansas Veterans Health Care System on October 11, 2022. The claimant was diagnosed with "Right wrist pain" and "Soft tissue swelling right wrist."

The claimant treated at I & O Medical Centers, Newport News, Virginia, on October 19, 2022. The diagnosis was "R hand strain, R wrist flexor sprain." The WORK STATUS at that time was "Return to Modified/Restricted Duty on 10/19/22 through 10/21/22." The work restrictions included no lifting or pulling more than five pounds, no overhead work with right hand, no climbing, no operation of hazardous machinery or power tools, and no tight gripping with right hand.

The claimant followed up at I & O Medical Centers on October 21, 2022. The WORK STATUS on that date was "Return to Modified/Restricted

Duty on 10/21/22 through 11/1/2020.” The claimant was referred to a physical therapist.

Dr. John Wing reported on October 26, 2022:

Mr. Willie Hinton is currently a patient of the Hampton Veterans Administration Medical Center. Mr. Hinton injured his right wrist at work on October 11, 2022. He initially presented to the Little Rock Arkansas Veterans Administration Medical Center. He was diagnosed with a wrist strain which did not improve with medication. He then came to the Hampton Veterans Administration emergency room and was treated but still no improvement to his right wrist. He currently is seeing me his primary care doctor. We are awaiting an MRI and are initiating other therapy for his wrist. For the foreseeable future he is not able to work. It is unclear when he will be released to return to work. Any help that you could give this veteran would be greatly appreciated.

An MRI study of the claimant’s right wrist was done on November 13, 2022 with the following findings:

Bones: There is patchy marrow edema and small cystic signal throughout the carpal bones. There is no fracture.
Joints: There is moderate synovitis throughout the wrist. There is reactive subchondral edema at the lunocapitate and lunate - hamate articulations. There is chondral thinning with small osteophytes at the thumb carpometacarpal joint.
Ligaments: There is degeneration and possible tearing of the volar band of the scapholunate ligament. The lunotriquetral ligament is intact. The dorsal extrinsic wrist ligaments are intact.
TFCC: The central disc near the radial attachment is attenuated with likely a small full-thickness tear.
Tendons: There is mild diffuse tenosynovitis of the flexor tendons within the carpal tunnel and palm of the hand. There is mild tendinosis and tenosynovitis of the fourth extensor compartment, which is at the level of the skin marker....
IMPRESSION: 1. MRI of the right wrist demonstrates moderate diffuse synovitis.

2. Diffuse mild tenosynovitis of the flexor tendons of the carpal tunnel, and mild tenosynovitis of the fourth extensor compartment.
3. Degeneration and possible tear of the volar band of the scapholunate ligament.
4. Degeneration and likely full-thickness perforation of the central disc of the TFCC.

Dr. Wing reported on January 12, 2023:

Mr. Willie Hinton is currently a patient of the Hampton veteran administration Medical Center. He is being amongst other things followed for a wrist injury which occurred in October 2022 apparently on the job. The patient was discovered to have marked synovitis of his right wrist along with a possible tear in one of the ligaments. Patient was seen by specialist and currently is undergoing a rest cure. Patient continues to be disabled from the wrist. Any help that you could give this veteran as he recovers from his work-related injury would be greatly appreciated.

The claimant testified that Dr. Wing released him to return to work on February 22, 2023. The claimant testified that he returned to work for the respondent-employer on February 26, 2023 and that his last day of work was May 14, 2023.

A pre-hearing order was filed on June 1, 2023. According to the pre-hearing order, the claimant contended, "Worked night shift 10/10/22 6pm – 6am. Was off loading/staging camera/communication equipment was near end of shift. Felt a pull-on right hand. Completed shift. Told coworker (James Patrick) what happened, left work. Woke 1 ½ hours later with swollen arm/wrist/fingers. Called Bob Dow and reported accident at that time."

The respondents contended, "Claimant does not have a compensable injury. All tests revealed no new objective findings. Strains are not compensable."

The parties agreed to litigate the following issues:

1. Whether claimant sustained a compensable injury on or about October 11, 2022.
2. Compensation rate.
3. Whether claimant is entitled to temporary total disability benefits.
4. Whether claimant is entitled to medical benefits. All other issues are reserved by the parties.

Dr. Wing reported on June 28, 2023:

Mr. Willie Hinton is currently a patient of the Hampton Veterans Administration Medical Center. Mr. Hinton has been followed for right wrist injury since October 11, 2022. He was given a rest cure along with a cortisone shot. MRI indicated diffuse synovitis along with a tear in the volar band of the scapholunate ligament. Mr. Hinton was released to return to work on February 22, 2023. Patient continues to have right wrist pain and stiffness, treatment is pending orthopedic reevaluation. Any consideration that you could give this veteran would be greatly appreciated.

A hearing was held on July 11, 2023. The claimant testified that he was not working, and that his right wrist was "not 100%." The claimant testified with regard to his right hand, "It's not the same. It's not strong. It's painful. I don't have the dexterity that I had before."

An administrative law judge filed an opinion on September 29, 2023.

The administrative law judge determined, among other things, that the

claimant proved “he suffered a compensable injury on October 11, 2022.”

The administrative law judge found, in pertinent part:

3. Claimant has met his burden of proof by a preponderance of the evidence that he is entitled to temporary total disability benefits beginning October 11, 2022, and continuing through February 22, 2023.
4. Claimant has met his burden of proof by a preponderance of the evidence that he is entitled to reasonable and necessary medical benefits for his right upper extremity injury.

The administrative law judge concluded, “Dr. Wing’s records support the contention that claimant had not reached the end of his healing period until February 22, 2023, and I am satisfied that it began on October 11, 2022.”

The parties have stipulated that “all prior opinions are *res judicata*.”

The claimant testified that his compensable injury subsequently “flared back up” and that he needed additional medical attention. The claimant testified that the respondent-carrier denied additional medical treatment.

Dr. Wing reported on December 20, 2023:

Mr. Willie Hinton is currently a patient of the Hampton Veterans Administration Medical Center. Mr. Hinton continues to be unable to work due to a right wrist injury and is advised not to work until further treatment given. Any consideration that you could give this veteran would be greatly appreciated.

The claimant treated at RMC Hospital on January 2, 2024: “Patient is coming in with right arm pain history the same is currently on worker’s

comp for a torn ligament in the right arm. Exacerbated with movement no alleviation this is a chronic injury. Is wanting something for pain.” A “Medical Decision Making” note indicated, “Right arm pain pain control follow-up with PCP and your workmen’s comp physician no new injury or findings.”

An x-ray of the claimant’s right hand was taken on February 5, 2024 with the following report:

No acute osseous abnormality. Mild to moderate osteoarthritic change of the 1st CMC joint. No significant soft tissue findings.
Impression: No acute findings.

An x-ray of the claimant’s right wrist was taken on February 5, 2024 with the following report:

The distal radius and ulna appear intact without fracture. The carpal bones appear intact without fracture or dislocation. There is mild arthritis of the STT joints and 1st CMC joint. There is moderate to advanced arthritis 1st MCP joint. The soft tissues are unremarkable.
Impression: Moderate to advanced arthritis 1st MCP joint. Mild arthritis of the STT joints and 1st CMC joint. No acute fracture or dislocation demonstrated.

Dr. Andrea Lese noted on February 6, 2024:

CHIEF COMPLAINT: Right hand and wrist pain.
DATE OF INJURY/ONSET:
10/11/2022
S/p lifting heavy equipment and boxes
HISTORY OF PRESENT ILLNESS: Mr. Hinton is a 57 year old right hand dominant male who presents with right hand pain and wrist pain. He was first seen there on 12/13/2022 for a work injury in which he was lifting boxes. He was lifting

heavy boxes and equipment. He was in Arkansas at the time working for Westinghouse. He was seen at the time at VA Hospital. He went there because he was having pain. He was seen and xrays were taken, which were reportedly negative. He then came here and was seen in Hampton, VA, at the VA Hospital. He was then referred to HROSM. He was seen there twice and got injections from them for the synovitis. He had an MRI in December 2022. This showed tenosynovitis. All the while, he was trying to get the Worker's Compensation and went to court to get worker's compensation. He was granted that judgment. He could not be seen at HROSM because they do not take out of state WC. He has been seen at the Rheumatologist sometime between December 2022 and September 2023 and blood work was negative for systemic inflammatory conditions.

Today he states he continues to have pain and swelling. He states it is mostly over the dorsal wrist and forearm. It is intermittent; it gets worse when he attempts to do activities like lifting objects. He says this aggravates it more.

Hydrocodone helps the pain. He also tried Naproxen which didn't seem to help the swelling. He says the injections may or may not have helped because he had to go back to work. Oral steroids did not resolve. He has had to work and climb ladders and lift....

Right wrist and forearm: there is dorsal swelling. There is tenderness over the swelling dorsal wrist and forearm with tenderness....

IMAGING

3 views of the right hand/wrist were taken today in clinic and analyzed by me[.]

My interpretation is no acute fracture or dislocation. The patient is ulnar positive variance.

MRI right wrist performed by HROSM in 12/2022: I have no access to these images. The official read indicates tenosynovitis of both the extensor (4th dorsal compartment) and flexor (in the carpal tunnel) tendons. There is a volar tear of the SL ligament. There is a central tear of the TFCC.

ASSESSMENT/PLAN: right wrist and forearm tenosynovitis[.] - today I explained to the patient that I do not have a surgical solution to this issue. The SL and TFCC issues are not causing the pain over the dorsal forearm. I recommend he

see Rheumatology for another opinion. He may have a seronegative systemic inflammatory condition.
- he would also like to try therapy. I will send him to Steve Hermann in Hampton.

The claimant received an Upper Extremity Outpatient Evaluation at Riverside Outpatient Occupational Therapy on February 9, 2024. The diagnosis was "1. Right hand pain. 2. Stiffness of hand joint, right. 3. Synovitis and tenosynovitis." An Occupational Therapist noted, "Edema: noted to have swelling in the R hand." The therapist planned, "Mr. Hinton is to be seen 2 times per week for 12 weeks. Treatment to consist of Therapeutic Exercise, Manual therapy, NMR, Therapeutic activities, Electrical Stimulation, Ultrasound, Orthotic check, Orthotic fitting and training, community/work integration, self-care and Physical Tests/Measures."

Dr. Lese reported on May 23, 2024:

Mr. Hinton returns for a follow-up. We last saw him on 2/6/2024 when we diagnosed him with right wrist and forearm tenosynovitis. I explained to him that I did not have a surgical solution for this issue and recommended therapy. I recommended he see Steve Hermann in Hampton, which he has been doing. Today he states he has been seeing Steve Hermann, but he still has pain, so Steve recommended he come back to us. He says he felt some soothing of the pain while he was there, but then the pain would come back. He has not been able to work and is trying to get the worker's compensation. He still has pain over the dorsal wrist radiating up the forearm....
Right wrist and forearm: skin intact. Minimal swelling. He has pain and tenderness over the dorsal wrist. Pain with resisted wrist extension. Mild pain with thumb extension.

Dr. Lese assessed “Right wrist and forearm tenosynovitis – at this time, I explained to the patient that I do not have a surgical answer to his issue. We could refer him to a PM&R physician, if that is available to him. – follow up with me as needed.”

A pre-hearing order was filed on June 6, 2024. According to the pre-hearing order, the claimant contended, “Worked night shift 10/10/22 6pm-6am. Was off loading/staging camera/communication equipment was near end of shift. Felt a pull-on right hand. Completed shift. Told coworker (James Patrick) what happened, left work. Woke 1 ½ hours later with swollen arm/wrist/fingers. Called Bob Dow and reported accident at that time.”

The respondents contended, “The healing period ended February 22, 2023. That issue is *res judicata* as it was decided in the previous hearing. There is no proof of a new condition or a new reason for additional temporary total disability. Additional medical treatment is not reasonable or necessary and has not been identified by any physician.”

The parties agreed to litigate the following issues:

1. Whether claimant is entitled to temporary total disability benefits from December 20, 2023 to a date to be determined.
2. Whether claimant is entitled to additional medical benefits.
3. Whether claimant is entitled to reimbursement of past medical benefits.

4. Whether claimant is entitled to payment of unpaid medical from last Order. All other issues are reserved by the parties.

Dr. Stephanie Giammittorio examined the claimant on June 11,

2024:

Willie A. Hinton is a 57 y.o. male who presents with right forearm pain. The pain started [October] 2022 inciting event: injured while lifting boxes at work. He was lifting it off the ground with palms facing towards him. He felt a pop. He was in Arkansas at the time. He then had an [increase] in the pain and had swelling after a job in December 2023. He was seen then at the VA and HROSM. He was granted workers comp then they couldn't take this so saw Dr. Lese. She did not recommend any surgical intervention but recommended OT and eval by rheum. Pain is volar, dorsal wrist. Current symptoms include: numbness/tingling in all fingertips.... The patient has normal right wrist ROM.... The patient has normal right wrist strength.... Erythema: absent....

Dr. Giammittorio assessed "Primary osteoarthritis of right wrist – Primary," "Synovitis and tenosynovitis," and "Neuropathy (CMS/HCC)." Dr. Giammittorio planned "Rest, ice, compression, elevation (RICE) therapy....Patient was prescribed a brace for the diagnosis above."

An x-ray of the claimant's right forearm was taken on June 11, 2024 with the following report:

There is no new fracture, dislocation, or subluxation. There is no bone lesion or periosteal reaction. Soft tissues unremarkable.
Impression: Normal study.

After a hearing, an administrative law judge filed an opinion on August 22, 2024. The administrative law judge found:

3. Claimant has met his burden of proof by a preponderance of the evidence that he is entitled to be reimbursed for medical expenses incurred since the date of the previous opinion that are related to his compensable right arm injury, both those that he paid out of pocket and those that are still outstanding upon presentation to respondent of an itemized statement.

The respondents do not appeal the administrative law judge's finding that the claimant was entitled to reimbursement for medical expenses. The administrative law judge found that the claimant proved he was entitled to temporary total disability benefits beginning December 20, 2023. The respondents appeal to the Full Commission the administrative law judge's award of temporary total disability benefits beginning December 20, 2023.

II. ADJUDICATION

An employee who sustains a compensable scheduled injury shall receive temporary total disability benefits during his healing period or until he returns to work, whichever occurs first. Ark. Code Ann. §11-9-521(a)(Repl. 2012); *Wheeler Constr. Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W.3d 822 (2001). The healing period is that period for healing of the injury which continues until the employee is as far restored as the permanent character of his injury will permit. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). If the underlying condition causing the disability has become more stable and nothing further in the way of

treatment will improve that condition, the healing period has ended. *Id.* Whether an employee's healing period has ended is a question of fact for the Commission. *Ketcher Roofing Co. v. Johnson*, 50 Ark. App. 63, 901 S.W.2d 25 (1995).

An administrative law judge found in the present matter, "2. Claimant has met his burden of proof by a preponderance of evidence that he is entitled to temporary total disability benefits beginning December 20, 2023." The Full Commission does not affirm this finding.

The claimant testified that he sustained an accidental injury to his right upper extremity on or about October 11, 2022. The claimant began treating at I & O Medical Centers on October 19, 2022. The diagnosis at that time was "R hand strain, R wrist flexor sprain." An MRI study on November 13, 2022 showed, among other things, a "possible tear of the volar band of the scapholunate ligament." An administrative law judge filed an opinion on September 29, 2023. The administrative law judge determined that the claimant "suffered a compensable injury on October 11, 2022." The administrative law judge awarded reasonably necessary medical treatment.

The administrative law judge also found that the claimant "has met his burden of proof by a preponderance of the evidence that he is entitled to temporary total disability benefits beginning October 11, 2022, and

continuing through February 22, 2023.” The administrative law judge concluded in his opinion filed September 29, 2023, “Dr. Wing’s records support the contention that claimant had not reached the end of his healing period until February 22, 2023, and I am satisfied that it began on October 11, 2022.” The parties have stipulated that “all prior opinions are *res judicata*.” The purpose of the *res judicata* doctrine is to put an end to litigation by preventing a party who had one fair trial on a matter from relitigating the matter a second time. *Cox v. Keahey*, 84 Ark. App. 121, 133 S.W.3d 430 (2003). *Res judicata* applies where there has been a final adjudication on the merits of the issue by a court of competent jurisdiction on all matters litigated and those matters necessarily within the issue which might have been litigated. *Beliew v. Stuttgart Rice Mill*, 64 Ark. App. 334, 987 S.W.2d 281 (1998). *Res judicata* applies to decisions of the Commission. *Harvest Foods v. Washam*, 52 Ark. App. 72, 914 S.W.2d 776 (1996).

The evidence of record and the administrative law judge’s opinion filed September 29, 2023 therefore demonstrate that the claimant reached the end of the healing period for his compensable scheduled injury no later than February 22, 2023. The evidence of record does not demonstrate that the claimant re-entered a healing period at any time after February 22, 2023.

The claimant sustained a compensable scheduled injury on or about October 11, 2022. The claimant was subsequently diagnosed with a “R hand strain, R wrist flexor sprain.” The Full Commission reiterates, according to the record, that the claimant reached the end of the healing period for his compensable right wrist flexor sprain no later than February 22, 2023. A claimant is not entitled to temporary total disability benefits after the end of his healing period. See Ark. Code Ann. §11-9-521(a)(Repl. 2012); *Milligan v. West Tree Serv.*, 57 Ark. App. 14, 946 S.W.2d 697 (1997).

Dr. Wing reported on December 20, 2023 that the claimant was “unable to work due to a right wrist injury and is advised not to work until further treatment given.” It is within the Commission’s province to weigh all of the medical evidence and to determine what is most credible. *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). In the present matter, the Full Commission finds that Dr. Wing’s December 20, 2023 correspondence is not probative evidence demonstrating that the claimant re-entered a healing period for his compensable scheduled injury. A medical provider reported on January 2, 2024 that the claimant’s injury was “chronic” and that there was “no new injury or findings.” An x-ray on February 5, 2024 showed “mild arthritis” in the claimant’s right wrist. The finding of “mild arthritis” in the right wrist is not evidence demonstrating that

the claimant re-entered a healing period. Dr. Lese reported on February 6, 2024 that diagnostic imaging of the claimant's right hand and wrist showed "no acute fracture or dislocation." Dr. Lese opined, "I do not have a surgical solution to this issue."

Dr. Lese reported "Minimal swelling" in the claimant's right wrist on May 23, 2024. Dr. Giammittorio examined the claimant on June 11, 2024 and reported "normal right wrist" range of motion and "normal wrist strength." The impression from an x-ray of the claimant's right forearm on June 11, 2024 was "Normal study." The Full Commission recognizes that an employee who has sustained a compensable injury is not required to offer objective medical evidence in order to prove that he is entitled to additional benefits. *Ark. Health Ctr. v. Burnett*, 2018 Ark. App. 427, 558 S.W.3d 408. In the present matter, however, the evidence of record demonstrates that the claimant did not re-enter a healing period at any time after February 22, 2023. The persistence of pain does not prevent a finding that the healing period has ended, provided that the underlying condition has stabilized. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982). We find in the present matter that the claimant's underlying condition stabilized no later than February 22, 2023.

Based on our *de novo* review of the entire record currently before us, the Full Commission finds that the claimant did not prove he was entitled to

temporary total disability benefits at any time after February 22, 2023. Because the claimant did not prove he was entitled to additional temporary total disability benefits, we need not adjudicate whether the claim is barred by *res judicata*. The Full Commission reiterates that the respondents do not appeal the administrative law judge's finding that the claimant proved he was entitled to reimbursement for reasonably necessary medical expenses. Our finding that the claimant did not re-enter a healing period at any time after February 22, 2023 does not preclude the claimant from receiving reasonably necessary medical treatment in accordance with Ark. Code Ann. §11-9-508(a)(Repl. 2012). See *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

MICHAEL R. MAYTON, Commissioner