

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H109984

SHAUNA D. TORRENCE, EMPLOYEE	CLAIMANT
LAFAYETTE COUNTY SCHOOL DISTRICT, EMPLOYER	RESPONDENT
ARKANSAS SCHOOL BOARDS ASS'N WORKERS' COMPENSATION TRUST, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED DECEMBER 16, 2024

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

Claimant represented by the HONORABLE GREGORY R. GILES, Attorney at Law, Texarkana, Arkansas.

Respondents represented by the HONORABLE MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed.

OPINION AND ORDER

The claimant appeals an administrative law judge's opinion filed July 24, 2024. The administrative law judge found that the claimant failed to prove she sustained a compensable injury. After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove she sustained a compensable injury.

I. HISTORY

Shauna Dorice Torrence, now age 43, testified that she became employed as a bus driver for the respondents in 2004. Ms. Torrence

testified that she later contracted to be a custodian for the respondent-employer. The claimant testified on direct examination:

Q. Before you got hurt, give us a picture of the typical day for yourself as you would manage the bus driving activities and then take on your custodial responsibilities. What was the typical time for you to get there each day?

A. Each day it varied. It's depending on how many kids I had, so some days it would be 5:30, some days it would be 6:00 I would get there....

Q. So once you would get them picked up, what time would you typically get them delivered to the school?

A. Around 8:00....

Q. Would you start your custodial duties at that point?

A. Yes, sir, I would.

Q. And at what point in the day would you stop your custodial duties and then take back on the responsibility of delivering the children home?

A. Around 2:00, 2:15.

Q. So once you would get the children delivered and you started your custodial duties, on a typical day, did you have a general routine, typically, of how you would go through the day?

A. Yes, sir.

Q. Could you give us a picture of that?

A. Pulled up all of the trash out of the classrooms. Sweeping the classrooms. Some classrooms needed to be mopped. Bathrooms. Pulling the trash up in the bathrooms. I went from one building to – I went from the main building to the kindergarten building, the same thing. Pulling up trash, sweeping. If they needed mopped, I mopped. Pulling up trash in the bathrooms, cleaning those bathrooms, until it was time for my bus route.

The parties stipulated that the employment relationship existed at all pertinent times, "including October 5, 2021, the date the claimant alleges she became temporarily totally disabled due to alleged work-related bi-

lateral carpal tunnel syndrome (CTS), particularly CTS, most notably in her right wrist/hand.”

The claimant testified on direct examination:

Q. And what time of day did the event that we're talking about on October 5<sup>th</sup> occur, do you recall?

A. I know it was before lunch. I always go over there and clean the bathrooms before lunch, so I'm going to say around about 9:00, maybe 9:30.

Q. And immediately before this happened, what area of the campus were you on?

A. I was in the cafeteria in the foyer part...

Q. Tell us what happened.

A. As I was getting ready to enter out the door, I had the door open with my left, and I was pushing the cart with my right trying to get it over the – It's a metal beam there but, also, it's a tile kind of missing in there, and my wheel got stuck in the tile as I'm trying to get it over the metal part in the doorway....I had the cart pushing, you know, pushing out.

Q. All right. So you were, in effect, using the cart to try and push the door open?

A. Yes. I had my arm open with the left – Opened the door with the left, and I had my right hand on the cart trying to push it through....

Q. Describe for us how you fell.

A. I had my hand, my right hand on the cart trying to hold on, because I didn't want to, you know didn't want – I seen what was fixing to happen, but I didn't want to fall hard, so I'm still hanging on, but I did hit the floor....

Q. Did you think you needed medical attention at that time?

A. No, sir.

Q. Were you able to complete your day and go on and return the children home on the bus?

A. Yes, sir....

Q. Did you, at some point, decide to go see a doctor with regard to the problems that you were having?

A. Yes, sir.

Q. At that time, what doctor did you go see?

A. It was Dr. Saldino.

Q. And that was for the foot?

A. Yes, sir.

According to the record, the claimant treated at Texas Foot And Ankle Institute on or about October 12, 2021: "40-year-old female has complaints of pain to her left dorsal foot. She states it is from her toes to her ankle. She has a history of diabetes but describes this is a hypoglycemia. She works as a bus driver." Dr. Michael C. Saldino diagnosed "Left degenerative midfoot changes are identified with posterior tibial tendinous pain....I recommend Custom Molded Orthotics."

The claimant presented for treatment at Christus Health on October 18, 2021. The Reason for Visit was reported as "left foot problem, bilateral" and "swelling in hands."

Dr. Priyal Patel reported on October 18, 2021:

Has been hurting for years.

Had xrays, was given three steroid shots in her feet, was given a mold for her shoe. Her feet still hurt. Does a lot of walking and hurts when she is walking.

Reports burning/stinging pain. Hasn't had [any] labwork in the last year....

**Abnormal BMI:** Diagnosis Obesity. Goals and care plan discussed at this visit. Discussed current nutrition and physical activity behaviors.

Dr. Patel wrote on October 18, 2021, "Due to patient's medical conditions, she needs to be put on light duty where she isn't walking long distances and she has sufficient break to recover between job duties."

Dr. Saldino continued to provide follow-up treatment for pain in the claimant's left lower extremity and noted on November 1, 2021, "Removed from work for an estimated 2 months."

Robert Edwards, Superintendent, Lafayette County School District, wrote the following on November 2, 2021:

To Whom This May Concern,  
Please accept this letter as evidence that there are no "light duty" options for Mrs. Torrence within the scope of her job duties as bus driver or custodian.  
In the event documentation is needed, please feel free to contact me at your convenience.

The claimant followed up with Dr. Patel on November 30, 2021:

Shauna was seen today for wants (sic) to go over echo report and hands hurt bad right hand hurts worse, can't hold anything with both of her hands and cannot even braid her daughter's hair. Gabapentin is not helping the pain. Also complains of dyspnea on minimal exertion. Echo of the patient is normal. Patient is wanting to see pulmonology. Reports that she used to clean and all the inhalation of the chemicals could have caused her lung issues....  
Advised patient to wear a wrist splint. We will order her a nerve conduction study and start her on Lyrica for the pain. We will refer her to pulmonology for her shortness of breath and give her albuterol inhaler in the meantime. We will start her on glimepiride for her diabetes and recheck back in 3 months.

Dr. Patel diagnosed "Type 2 diabetes mellitus without complication, without long-term current use of insulin (HC Category)," "Bilateral hand numbness," and "Dyspnea on minimal exertion."

Dr. Saldino reported on January 3, 2022:

[She] states that she is getting a neurological testing for her hands and feet as she is concerned that there may be a carpal tunnel syndrome. Both the feet and the hands are painful and are keeping her up at night. She states her feet have become so painful that she cannot do basic housework. Apparently there is some type of Worker's Compensation claim. She indicates she is wearing the boot on a regular basis. As her pain has not improved....

Her clinical response has been very limited and not what I would anticipate to date. I am concerned that much of this may be more of a neurological problem since it is occurring in her hands as well. This may be related to her diabetes which she says is well controlled. For the time being we can maintain the current treatment plan and had MRI imaging to see if this changes the treatment plan at all.

The claimant signed a Form AR-N, EMPLOYEE'S NOTICE OF INJURY, on or about January 6, 2022. The claimant appeared to write in the ACCIDENT INFORMATION section of the Form AR-N that the Date of Accident was October 5, 2021, and that she injured her "left foot and right hand." The claimant described the cause of injury: "trying to push the cart out of cafeteria door."

The claimant provided a recorded statement on January 7, 2022.

Melody Tipton with the Arkansas School Boards Association questioned the claimant:

Q. And you're employed with what school district?

A. Lafayette County School District.

Q. Which campus or department do you work at?

A. The lower elementary....

Q. What is your job title with the school district?

A. I'm a bus driver and a custodian....

Q. Alright, we're going to talk about your incident now. Do you remember the date and the time?

A. The date was on the 5<sup>th</sup>, October the 5<sup>th</sup>.

Q. And what time?

A. Around between 9 to 9:30, I don't remember. I wasn't looking at the clock. I don't remember exactly what time it was. The only thing I can tell you, it was before lunch, because (inaudible).

Q. Okay. About what time had you started working that day?

A. At 5:30.

Q. And where were you when this incident happened? Be specific, if you were in a hallway, tell me what hallway.

A. No I was in the foyer part over there in the cafeteria.

Q. What were you doing at the time?

A. At the time, I was trying to get the car (sic) out of the, to push the cart out of the door. I was leaving, I had finished cleaning up, and I had, had the door with my left one and I was trying to push it with my right one, trying to get the door, trying to get my cart out the door.

Q. And what happened?

A. It's a metal part, between the two glass doors, and I was trying to get it over there, trying to get the cart over that metal part. And I don't know what happened, only thing I can tell you, I went to do that and that's when I went down, and I had the cart with my right one, trying to hold. I didn't want to fall and hurt myself.

Q. So you said you fell?

A. No, I tried to keep from falling....my left feet (sic) gave out on me.

Q. So the part of your body that was injured was your left foot?

A. My left foot and my right hand....

GG: Explain to us how you hurt your right hand. What is you think you did on your right hand?

A. I was trying to keep myself....I had my right hand trying to push the buggy out. I don't know if I put a lot of weight, I don't know what I done, ma'am, but I was pushing the cart with my right hand....

GG: So you were grabbing with your right hand to your cart to hold on to keep from falling?

A. Yes, to keep from hurting myself real bad. That's concrete. And I kept just, trying to keep myself from just falling.

The record contains a report from Wadley Regional Medical Center Neurophysiology Laboratory dated January 18, 2022:

Patient c/o pain, numbness and tingling in her hands, right hand being worse. Patient has PMH of diabetes. No PMH of hypothyroidism or B12 deficiency....  
Bilateral median, ulnar and radial sensory nerve conduction studies were normal.  
Bilateral ulnar digital sensory nerve conduction studies showed no response.  
Right medial digital sensory nerve conduction study showed prolonged latency.  
Left median digital sensory nerve conduction study showed no response.  
Bilateral median and ulnar motor nerve conduction studies were normal.  
Bilateral median F-wave studies were normal.

Dr. Khalid Malik gave the following impression on January 18, 2022:

“Bilateral ulnar digital and median digital nerve lesions.”

Sara Moreno, CCMA, a representative of Christus Health, stated on January 18, 2022:

Due to patient’s medical conditions and since there is not “light duty” offered in scope of job duties. She needs to be off of work due to not being able to walk long distances, and needing to have sufficient breaks to recover between job duties.

An MRI of the claimant’s left foot was taken on January 20, 2022 with the impression, “Mild degenerative changes and small adjacent ganglion noted at the level of the third and fourth TMT joints. Otherwise, there is negative without posttraumatic pathology noted.”

Dr. John Camp examined the claimant on February 14, 2022:



This is a 40-year-old right-hand dominant female who is a patient of Dr. Patel, as well as a Dr. Malik. Ms. Torrence relates she took a fall back sometime in October of this past year onto her outstretched right hand. She has had some pain, swelling, numbness, and tingling dating back to that incident. She has tried bracing both day and night and anti-inflammatories including some Lyrica and gabapentin for nerve type symptoms. She also does use [an] asthma inhaler as necessary.

Ms. Torrence did have a nerve study accomplished by Dr. Malik after being seen by her primary care provider, Dr. Patel. This did show evidence of a right-sided carpal tunnel syndrome....

X-rays of her right wrist taken today are within normal parameters. No significant arthrosis. Carpal alignment is satisfactory.

Dr. Camp assessed "Right carpal tunnel syndrome, significant. Rule out cervical radiculopathy. PLAN: My recommendation is to consider a surgical course for right carpal tunnel release when she is so inclined."

Dr. Gregory Ardoin noted on March 28, 2022, "Shauna Torrence is a 40 year old Female who presents to discuss concerns about their Foot/toe, that began on 10/05/2021. Patient has pain on the top of the foot primarily on the left side. She states she somehow slipped and caused a problem back in October 2021 she did not remember exactly what she did their foot (sic)." Dr. Ardoin examined the claimant's upper extremities and reported, "Full range of motion of shoulder elbow, wrist, and digits bilaterally....Impression: Left foot pain and likely early midfoot arthritis." Dr. Ardoin assessed "1. Pain in left foot" and "2. Body mass index 46+ - severely obese."

Dr. Camp performed a procedure on April 7, 2022: "Right carpal tunnel release." The pre- and post-operative diagnosis was "1. Right carpal tunnel syndrome, severe. 2. Morbid obesity." The claimant testified with regard to surgery performed by Dr. Camp, "It helped a little bit," that surgery relieved the numbness in her right hand.

The record indicates that the respondents terminated the claimant's employment contract effective April 30, 2022.

Dr. Gregory Smolarz noted on January 10, 2023:

This is a 41 y.o. female who presents for left hand pain. Patient reports that she has a history of a carpal tunnel release of her right hand after patient developed carpal tunnel syndrome after a fall in which she landed on her right hand about a year ago. Patient says that she has been having left hand pain most recently with numbness and tingling that is similar to how her right hand (sic). She mentions the left hand pain and numbness started some time after her right hand. Her right hand is no longer having numbness or tingling. It still has pain and swelling at times. Patient says that her left hand has numbness and tingling that wakes her up at night at times....

The Nerve Conduction Study of the bilateral hand was reviewed and the findings indicate bilateral ulnar and digital and median digital lesions.

Dr. Smolarz assessed "1. Carpal tunnel syndrome of left wrist. 2. Carpal tunnel syndrome of right wrist." Dr. Smolarz recommended conservative treatment.

Dr. Patrick O'Brien examined the claimant at UAMS on June 29, 2023 and diagnosed the following: "42 y.o. female with possible right hand

complex regional pain syndrome following carpal tunnel release by outside surgeon, untreated left carpal tunnel syndrome.” Dr. O’Brien planned additional electrodiagnostic testing.

The claimant followed up at UAMS with Dr. John Bracey on August 30, 2023:

Patient is a 42-year-old who returns today for follow-up evaluation of her bilateral upper extremities. She has a history of numbness and tingling in both upper extremities. She had previously undergone treatment for carpal tunnel syndrome with a carpal tunnel release [in] 2021. She again reports that that did not really help any of her symptoms. She continues to have numbness in both hands which is worse in the right side. Involves all 5 fingers on the right and just the middle, index, and thumb of the left. She also says she has trouble with numbness and pain in the legs which is actually worse on the left side. She complains of neck and back pain....

Nerve test: Today we reviewed and personally interpreted the recent nerve test done by Dr. Chesser. On the motor nerve conduction study appears to be normal conduction of both the median and ulnar nerves bilaterally. On sensory nerve conduction there is very mildly increased or prolonged distal latency in the median nerves across the wrist. The EMG is normal. Study is consistent with some very mild to minimal carpal tunnel syndrome....

Today I had a long discussion with the patient. We did review the nerve test in detail together. I explained that I do believe some of her symptoms are likely secondary to some peripheral nerve compression at the carpal tunnel and cubital tunnel but this appears to be very mild. I explained that I do not think it would fully explain the type of pain that she is having. I explained [it's] possible she has a double crush phenomenon with additional irritation of the cervical spine level which could cause similar symptoms. I recommend that she be evaluated by one of our nonoperative partners for evaluation of her neck and they can also evaluate her back

which may be contributing to her lower back pain and lower extremity numbness.

Dr. Bracey's impression was "Bilateral upper extremity numbness and pain."

The claimant's attorney corresponded with a representative of the Commission on October 3, 2023:

This letter is to advise you that I have agreed to represent and assist Ms. Torrence as a result of bilateral carpal tunnel injuries sustained on October 5, 2021, or in the alternative, as a result of the rapid repetitive nature of her work with the Lafayette County School District during the course of her employment. I am attaching the Form AR-C on her behalf.

The claimant signed a Form AR-C, CLAIM FOR COMPENSATION, on October 3, 2023. The ACCIDENT INFORMATION section of the Form AR-C indicated that the Date of Accident was October 5, 2021. The cause of injury was "Carpal Tunnel Syndrome – Bilateral."

A pre-hearing order was filed on December 11, 2023. According to the text of the pre-hearing order, the claimant contended, "The claimant contends she sustained bilateral CTS injuries which culminated in disability on or about October 5, 2021, or alternatively, as a result of her rapid, repetitive work-related activities performed at the school district since 2004. She contends the applicable S/L does not barr (sic) her claim for CTS in her left wrist/hand. The claimant further contends she is entitled to TTD benefits from on or about January 18, 2022, through on or about June 30,

2022, for treatment associated with her right wrist/hand. Furthermore, the claimant contends she is entitled to TTD benefits for treatment associated with the left wrist/hand beginning on or about January 10, 2023, until she was seen by Dr. Cassatt for evaluation on a date certain in 2023 (the claimant has requested these related records). The claimant contends the respondents are responsible for payment of her medical treatment and related out-of-pocket expenses for her bilateral CTS, as such treatment is related to and reasonably necessary in light of the work-related bilateral CTS injuries. The claimant contends she has sustained permanent anatomical impairment to both her left and right wrist/hand as a result of these bilateral CTS injuries; however, she specifically reserves this issue pending the Commission's decision of the threshold compensability issue. The claimant reserves any and all other issues for future determination and/or litigation."

The parties stipulated that the respondents "controvert this claim in its entirety." The respondents contended, "The respondents contend the applicable S/L bars (sic) her CTS claim in her left wrist/hand. Furthermore, the respondents contend the claimant cannot meet her burden of proof pursuant to the Act in demonstrating she sustained CTS in either her right wrist/hand and/or her left wrist/hand, which culminated in alleged disability on or about October 5, 2021, or at any other time while she was working

with the respondents. Significantly, the respondents contend the claimant did not provide them the statutorily required notice of any alleged right wrist/hand CTS injury until the the (sic) Form AR-C was filed on her behalf on January 5, 2022. In addition, the respondents contend the claimant also failed and/or refused to provide them the legally required notice of any alleged left wrist/hand CTS injury until October 26, 2023, the date she filed her initial Response to Prehearing Questionnaire. If the claimant's injury(ies) is (are) deemed compensable, the respondents contend the claimant received both short and long-term disability (STD, and LTD, respectively) benefits and, therefore, pursuant to **Ark. Code Ann.** Section 11-9-411 (2023 Lexis Replacement), they are entitled to a dollar-for-dollar offset/credit. Finally, the respondents contend the claimant's need for medical treatment, if any, is related to her diabetes mellitus and not any acute or gradual injury. The respondents reserve the right to supplement their contentions and assert any and all other applicable defenses and arguments upon the completion of necessary investigation and discovery. The respondents reserve any and all other issues for future determination and/or litigation."

The parties agreed to litigate the following issues:

1. Whether the claim for the claimant's left wrist CTS is barred by the applicable statute of limitations (S/L).
2. Whether the claimant sustained compensable bilateral CTS injuries, particularly in her right wrist/hand, within the

meaning of the Arkansas Workers' Compensation Act (the Act) which allegedly culminated in disability on or about October 5, 2021.

3. If the claimant's alleged bilateral CTS is deemed compensable, the extent to which she is entitled to medical and indemnity benefits, specifically TTD benefits from on or about January 18, 2022, through on or about June 30, 2022, for treat (sic) related to her right wrist/hand; and from on or about January 10, 2023, until at least March 7, 2023, with respect to her left wrist/hand.
4. Whether the claimant's attorney is entitled to a controverted fee on these facts.
5. The parties specifically reserve any and all other issues for future determination and/or litigation.

A hearing was held on April 25, 2024. At that time, the respondents withdrew their statute of limitations defense. The claimant testified on direct examination:

Q. So we're here today because you are alleging the symptoms with regard to your hands, the right that you've had surgery on and the left that you didn't, you believe occurred as a result of your work-related activities there at the school district. Why do you think the school should be responsible for your hand problems?

A. Yes, sir. The reason why I think is if it wasn't from the fall, it was the day-to-day activity I had to do, the repetitive on my job.

Q. When you say repetitive activities, what are you talking about?

A. The sweeping, the mopping, the dusting, the everyday things that I did, vacuuming.

Q. What was the pace of the performance of those activities as you would do those from day to day and as you went from bathroom to bathroom and building to building?

A. I tried to do them as quickly as possible.

Q. Had you had any problems with your hands before October 5<sup>th</sup>?

A. No, sir.

An administrative law judge filed an opinion on July 24, 2024. The administrative law judge found that the statute of limitations did not bar the claim. The respondents do not appeal that finding. The administrative law judge found that the claimant failed to prove she sustained a compensable injury. The administrative law judge therefore denied and dismissed the claim. The claimant appeals to the Full Commission.

## II. ADJUDICATION

### A. Compensability

Ark. Code Ann. §11-9-102(4)(Repl. 2012) provides, in pertinent part:

(A) “Compensable injury” means:

(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;

(ii) An injury causing internal or external physical harm to the body and arising out of and in the course of employment if it is not caused by a specific incident or is not identifiable by time and place of occurrence, if the injury is:

(a) Caused by rapid repetitive motion. Carpal tunnel syndrome is specifically categorized as a compensable injury falling within this definition[.]...

A compensable injury must also 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).



Ark. Code Ann. §11-9-102(4)(Repl. 2012) further provides, in pertinent part:

(E) BURDEN OF PROOF. The burden of proof of a compensable injury shall be on the employee and shall be as follows:

- (i) For injuries falling within the definition of compensable injury under subdivision (4)(A)(i) of this section, the burden of proof shall be a preponderance of the evidence; or
- (ii) For injuries falling within the definition of compensable injury under subdivision (4)(A)(ii) of this section, the burden of proof shall be by a preponderance of the evidence, and the resultant condition is compensable only if the alleged compensable injury is the major cause of the disability or need for treatment.

Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003). "Major cause" means "more than fifty percent (50%) of the cause," and a finding of major cause shall be established according to the preponderance of the evidence. Ark. Code Ann. §11-9-102(14)(Repl. 2012).

1. Alleged Specific Incident

An administrative law judge found in the present matter, "3. The claimant has failed to meet her burden of proof that she has sustained either a specific incident or a gradual onset compensable injury to either or both her right or left wrist." It is the duty of the Full Commission conduct our own fact-finding independent of that done by an administrative law judge. *Crawford v. Pace Indus.*, 55 Ark. App. 60, 929 S.W.2d 727 (1996). The Full

Commission enters its own findings in accordance with the preponderance of the evidence. *Tyson Foods, Inc. v. Watkins*, 31 Ark. App. 230, 792 S.W.2d 348 (1990).

In the present matter, the Full Commission finds that the claimant did not prove she sustained a compensable injury to her left upper extremity or right upper extremity in accordance with Ark. Code Ann. §11-9-102(4)(A)(i)(Repl. 2012). The claimant testified that she became employed with the respondents, Lafayette County School District, in 2004. The claimant testified that she worked for the respondents as a bus driver and custodian. The parties stipulated that the employment relationship existed on October 5, 2021. The claimant testified that she was pushing a cart that day in the respondent-employer's cafeteria. The claimant testified that, while attempting to push the cart through a door, she fell and injured her right hand.

The Commission may accept only those portions of the testimony that it determines are worthy of belief. *Tucker v. Roberts-McNutt, Inc.*, 342 Ark. 511, 29 S.W.3d 706 (2000). Based on the record in the present matter, the Full Commission finds that the claimant was not a credible witness. The evidence of record does not corroborate the claimant's testimony that she injured either her right hand or left hand on October 5, 2021. The claimant first sought medical treatment on October 12, 2021.

The claimant reported pain in her left dorsal foot but did not inform the medical provider that she had injured her right hand or left hand. The claimant treated at Christus Health on October 18, 2021. The claimant reported swelling in her hands but did not report an accidental injury causing physical harm to her right or left hand. Dr. Patel diagnosed “Obesity” at that time but did not report a work-related injury allegedly occurring on October 5, 2021. Dr. Patel instead noted that the claimant “Has been hurting for years.”

Dr. Saldino first noted a possible diagnosis of carpal tunnel syndrome on January 3, 2022. Dr. Saldino did not causally relate this diagnosis to an accidental injury allegedly occurring on October 5, 2021. The evidence of record does not corroborate the claimant’s assertion on the January 6, 2022 Form AR-N that she injured her right hand while “trying to push the cart out of cafeteria door.” Nor does the evidence corroborate the claimant’s recorded statement given on January 7, 2022 that she injured her right hand while “pushing a cart.” The claimant informed Dr. Camp on February 14, 2022 that she had fallen “onto her outstretched right hand” in October 2021. Dr. Camp assessed “Right carpal tunnel syndrome, significant” and subsequently performed a right carpal tunnel release. Nevertheless, the Commission is entitled to review the basis for a doctor’s opinion in deciding the weight and credibility of the opinion and medical

evidence. *Swift-Eckrich, Inc. v. Brock*, 63 Ark. App. 118, 975 S.W.2d 857 (1998). In the present matter, there is no probative evidence demonstrating that Dr. Camp's assessment of "Right carpal tunnel syndrome" was causally related to an accidental injury allegedly occurring on October 5, 2021.

The Full Commission finds that the claimant did not prove by a preponderance of the evidence that she sustained a "compensable injury" in accordance with Ark. Code Ann. §11-9-102(4)(A)(i)(Repl. 2012). The claimant did not prove that she sustained an accidental injury causing internal or external physical harm to the right hand or left hand. The claimant did not prove that she sustained an injury which arose out of and in the course of employment, required medical services, or resulted in disability. The claimant did not prove that she sustained an injury which was caused by a specific incident or was identifiable by time and place of occurrence on or about October 5, 2021. We therefore affirm the administrative law judge's finding that the claimant failed to prove she sustained a compensable injury.

## 2. Alleged Gradual Onset

An administrative law judge found, "3. The claimant has failed to meet her burden of proof that she has sustained either a specific incident or a gradual onset compensable injury to either or both her right or left wrist." The Full Commission affirms this finding. Carpal tunnel syndrome is

specifically categorized as a compensable injury falling within the definition of rapid repetitive motion. Ark. Code Ann. §11-9-102(4)(A)(ii)(a)(Repl. 2012). Therefore, the claimant is not required to prove that her bilateral carpal tunnel condition was caused by rapid repetitive motion. See *Kildow v. Baldwin Piano & Organ*, 333 Ark. 335, 969 S.W.2d 190 (1998). The claimant is, however, required to prove by a preponderance of the evidence that the bilateral carpal tunnel condition arose out of and in the course of employment, and that the alleged compensable injury was the major cause of the disability or need for treatment. Ark. Code Ann. §11-9-102(4)(A)(ii)(Repl. 2012); Ark. Code Ann. §11-9-102(4)(E)(ii)(Repl. 2012).

In the present matter, the claimant did not prove that the diagnosed condition of bilateral carpal tunnel syndrome arose out of and in the course of the claimant's employment with the respondents. The evidence does not demonstrate that the claimant sustained bilateral carpal tunnel syndrome as a result of her custodial duties with the respondents. The record does not show that the duties described by the claimant, which including cleaning, sweeping, and mopping, caused bilateral carpal tunnel syndrome. Nor does the evidence demonstrate that the alleged compensable injury was the major cause of the claimant's disability or need for treatment. Dr. Patel reported in October 2021 that the claimant had been "hurting for years," but Dr. Patel diagnosed "Obesity" rather than an alleged compensable gradual

injury causing harm to the claimant's hands. Dr. Patel noted in November 2021 that the claimant was experiencing "bilateral hand numbness," but he diagnosed "Type 2 diabetes mellitus" rather than a compensable injury. In addition, Dr. Ardoin's assessment in March 2022 included "2. Body mass index 46+ - severely obese."

The Full Commission finds that the claimant did not prove by a preponderance of the evidence that she sustained a "compensable injury" in accordance with Ark. Code Ann. §11-9-102(4)(A)(ii)(Repl. 2012). The claimant did not prove that she sustained an injury causing internal or external physical harm to the body which arose out of and in the course of employment. Nor did the claimant prove that the alleged compensable injury was the major cause of the disability or need for treatment.

After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove by a preponderance of the evidence that she sustained a compensable injury in accordance with Ark. Code Ann. §11-9-102(4)(A)(i)(Repl. 2012). The claimant did not prove by a preponderance of the evidence that she sustained a compensable injury in accordance with Ark. Code Ann. §11-9-102(4)(A)(ii)(Repl. 2012). We therefore affirm the administrative law judge's finding that the claimant failed to prove she sustained a compensable injury, and this claim is respectfully denied and dismissed.

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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MICHAEL R. MAYTON, Commissioner

Commissioner Willhite dissents.

DISSENTING OPINION

The Administrative Law Judge (hereinafter referred to as “ALJ”) found that the Claimant failed to prove she sustained a compensable carpal tunnel injury. After conducting a thorough review of the record, I disagree. I would rule in favor of the Claimant as she has proved by a preponderance of the evidence that she sustained a compensable carpal tunnel injury to both of her wrists and is entitled to reasonable and necessary medical treatment for her compensable wrist injuries and temporary total disability from January 18, 2022, until May 20, 2022.

A. Claimant sustained a compensable carpal tunnel injury to both of her wrists.

To establish a compensable injury by a preponderance of the evidence the Claimant must prove: (1) an injury arising out of and in the course of employment; (2) that the injury caused internal or external harm to the body which required medical services or resulted in disability or

death; (3) medical evidence supported by objective findings, as defined in Ark. Code Ann. §11-9-102(16), establishing the injury; and (4) that the injury was caused by a specific and identifiable time and place of occurrence. Alternatively, a compensable injury can develop over a period of time or result from rapid repetitive motion. Ark. Code Ann. § 11-9-102(4)(A)(ii)(a). Carpal tunnel syndrome is specifically categorized as a compensable injury falling within this definition. *Id.* Proof of rapid and repetitive motion by a Claimant is not required as carpal tunnel syndrome is both compensable and falls within the definition of rapid repetitive movement. *Kildow v. Baldwin Piano & Organ*, 333 Ark. 35, 969 S.W.2d 190 (1998). A compensable injury must be established by medical evidence supported by objective findings and medical opinions addressing compensability must be stated within a degree of medical certainty. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002). Further, an injury resulting from something other than a specific incident must be shown to be the major cause of the disability or need for treatment. Ark. Code Ann. § 11-9-102(4)(E)(ii). Although objective medical findings are required to establish the existence and extent of an injury, objective medical findings are not required to establish causation. *Springfield Grocer Co. v. Chaulsett*, 2023 Ark. App. 53, 659 S.W.3d 731 (2023). Causation often comes down to a



decision on the credibility of the Claimant; medical evidence on causation is not required in every case. *Id.*

The Claimant began working as a bus driver for the Respondent in 2004, and later took on additional contract duties as a custodian. According to her testimony, Claimant cleaned approximately twenty classrooms a day. Her duties included wiping down the desks and sweeping and mopping the floor of each of her assigned classrooms. Further, Claimant cleaned approximately fifteen bathrooms a day which included wiping down the bathroom and sweeping and mopping the floors. On October 5, 2021, Claimant tripped and fell while working for the Respondent when she was pushing her janitorial cart into the school. Claimant landed on her right arm and left leg. Claimant was initially seen by Dr. Priyal Patel who diagnosed Claimant with a left foot problem and bilateral swelling in her hands. On November 30, 2021, Dr. Patel ordered a nerve conduction study for Claimant's hands. The nerve conduction study was performed on January 18, 2022 and showed bilateral ulnar digital and median digital nerve lesions. From these results, Claimant was diagnosed with right-sided carpal tunnel syndrome by Dr. John Camp on February 14, 2022. Dr. Camp recommended a right carpal tunnel release surgery for Claimant which was performed on April 7, 2022. On January 10, 2023, the Claimant was also

diagnosed with carpal tunnel syndrome of the left wrist for which conservative treatment was recommended.

Claimant was employed with the Respondent for approximately seventeen years, and worked in a capacity where she regularly used her upper extremities during the majority of her job duties. The credible evidence suggests that she was physically able to perform those duties without significant difficulties until the work accident on October 5, 2021. Following this work accident the Claimant began to experience swelling and pain in both of her hands, with more symptoms in the right hand. The record contains no reasonable explanation for these symptoms other than the Claimant's work duties and the October 5, 2021 work incident.

Carpal tunnel syndrome is specifically defined as a compensable injury, regardless of whether it was caused by specific injury or gradually over time. In this situation, I find that the work accident of October 5, 2021 may have played some part in the process, but that the Claimant's duties of constantly using her arms and hands at work over seventeen years resulted in the development of carpal tunnel in both of her wrists. Further, I find that Claimant's employment duties were the major cause of her disability and need for medical treatment. Therefore, based upon the credible evidence in the record I would rule that the Claimant sustained compensable gradual onset injuries to both of her wrists.

B. Claimant is entitled to additional medical treatment for her compensable wrist injuries.

An employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a). The claimant bears the burden of proving that she is entitled to additional medical treatment. *Dalton v. Allen Eng'g Co.*, 66 Ark. App. 201, 989 S.W.2d 543 (1999). What constitutes reasonable and necessary medical treatment is a question of fact for the Commission. *White Consolidated Indus. v. Galloway*, 74 Ark. App. 13, 45 S.W.3d 396 (2001); *Wackenhut Corp. v. Jones*, 73 Ark. App. 158, 40 S.W.3d 333 (2001).

In the present case, the Claimant has a compensable injury to both of her wrists in the form of carpal tunnel syndrome. I find this treatment is reasonable and necessary for the Claimant's compensable right wrist injury. Claimant has had her right wrist treated in the form of carpal tunnel release surgery. Claimant's physician, Dr. Gregory Smolarz, diagnosed the Claimant with left-sided carpal tunnel syndrome and recommended conservative treatment.

I further find that the Claimant is entitled to treatment for her compensable left-wrist carpal tunnel syndrome and that this recommended treatment is reasonably necessary in connection with the injury received by the Claimant.

C. Claimant is entitled to temporary total disability from January 18, 2022, until May 20, 2022.

Temporary total disability benefits are appropriate where the employee remains in the healing period and is totally incapacitated from earning wages. *Ark. State Highway Dep't v. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981).

On October 18, 2021, Dr. Patel placed Claimant on light-duty work restrictions. The note mentions the need to avoid walking long distances and could have a connection to the Claimant's left foot complaints. Following this, Superintendent Robert Edwards of the Lafayette County School District wrote a letter stating that there "are no 'light duty' options for Mrs. Torrence within the scope of her job duties as bus driver or custodian." On January 18, 2022, an EMG test was conducted which demonstrated abnormalities in both of the Claimant's wrists. On this same day, Claimant's off work status was reiterated by Sara Moreno, CCMA due to the Claimant's "medical conditions" and because light duty was not available to the Claimant with the Respondents. Claimant then underwent a right carpal tunnel release performed by Dr. Camp on April 7, 2022. Dr. Camp released Claimant to return to normal use of her right hand on May 20, 2022.

Based upon the credible evidence in the record, I would rule that the Claimant is entitled to temporary total disability benefits from January 18, 2022, until May 20, 2022.

D. The claim for benefits for the injury to Claimant's left wrist is not bound by the statute of limitations.

The Respondent's argue that they lacked appropriate notice in accordance with Ark. Code Ann. § 11-9-701 and that the claim is barred by the statute of limitations under Ark. Code Ann. § 11-9-702. However, both of these arguments lack merit. Claimant was injured on October 5, 2021. The Claimant testified that she informed her supervisor, Mr. Crank, and Mr. Cranks' secretary, Ms. Roxanne, immediately after the work incident. Claimant then filed an AR-C on October 21, 2021, informing the Respondent that the injury occurred on October 5, 2021. The Claimant also testified that she provided her employer with a copy of her work restrictions. After discovering the full extent of the Claimant's injuries in 2023, the Claimant then re-filed another AR-C amending the previous AR-C in the two-year period required by Ark. Code Ann. § 11-9-702. Therefore, I find that the Claimant is not barred by the statute of limitations, or alleged lack of notice in seeking Arkansas Workers' Compensation Commission benefits for the work incident that occurred on October 5, 2021.

For the reasons stated above, I respectfully dissent.

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M. SCOTT WILLHITE, Commissioner