

**ARKANSAS COURT OF APPEALS**

DIVISION II  
No. CA09-837

STAFFMARK INVESTMENTS, LLC,  
and AIG CLAIM SERVICES, INC.  
APPELLANTS

V.

JAMES KING

APPELLEE

**Opinion Delivered** DECEMBER 9, 2009

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. F709541]

AFFIRMED

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**M. MICHAEL KINARD, Judge**

Appellants, Staffmark Investments, LLC, and AIG Claim Services, Inc., appeal from a decision of the Arkansas Workers' Compensation Commission awarding additional medical treatment to appellee, James King. We affirm the decision of the Commission.

Appellee was assigned by Staffmark to work at International Paper. Appellee testified before an administrative law judge (ALJ) that his job was to work on an assembly line throwing cardboard boxes into a machine that would assemble the boxes. On or about June 20, 2007, appellee was working at International Paper when a stack of boxes flipped over on him, striking him from his head to his lower back. Appellants accepted the claim as compensable and referred appellee to Dr. Michael Lack. Dr. Lack assessed appellee with hand numbness and back contusion. Dr. Lack prescribed pain medication and heat treatment.

Dr. Lack also placed appellee on light-duty status with a restriction against any lifting over five pounds.

Appellee's symptoms did not improve, and he began to experience arm and leg numbness. Dr. Lack referred appellant to Dr. Terence Braden. In a report dated July 30, 2007, Dr. Braden stated that he could not find an objective cause for appellee's complaints of right arm and left hand numbness. Dr. Braden also recommended that appellee undergo an MRI. According to Dr. Braden, the MRI revealed degenerative changes and moderate to severe bony neuroforaminal stenosis on the left at C3 through C6. Dr. Braden saw no evidence of disc herniations on the MRI. On November 6, 2007, appellee received neck injections from Dr. Sunil Gera. On November 27, 2007, appellee reported to Dr. Gera that the injections were not helping him, that he was experiencing constant headaches, and that he could not work. Dr. Gera stated in his November 27, 2007 report that there was no cause for appellee's complaint that he cannot work.

On December 19, 2007, Dr. Braden declared that appellee had reached maximum medical improvement, released appellee to work at full duty, and assessed a zero-percent impairment rating. Appellee requested and received a change of physician to Dr. Rebecca Barrett-Tuck. On March 26, 2008, appellee reported to Dr. Barrett-Tuck complaining of pain in his neck and both arms, as well as numbness, tingling, and weakness in his hands. Dr. Barrett-Tuck stated that appellee's MRI revealed mild findings; she recommended a myelogram and post-myelogram CT scans of appellee's cervical spine. Appellants denied the treatment recommended by Dr. Barrett-Tuck.

Appellee filed a claim for benefits with the Commission, seeking the treatment recommended by Dr. Barrett-Tuck and additional temporary-total disability (TTD) benefits. On October 14, 2008, the ALJ issued an opinion awarding appellee the recommended treatment and TTD benefits from June 22, 2007 through December 19, 2007. In an opinion issued on June 18, 2009, the Commission affirmed the ALJ's award of additional medical benefits and reversed the ALJ's award of TTD benefits.<sup>1</sup> Appellants filed a timely notice of appeal to this court.

In reviewing a decision of the Arkansas Workers' Compensation Commission, this court views the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings and affirms those findings if they are supported by substantial evidence, which is evidence a reasonable person might accept as adequate to support a conclusion. *SSI, Inc. v. Lohman*, 98 Ark. App. 294, 254 S.W.3d 804 (2007). We will not reverse the Commission's decision unless we are convinced that fair-minded persons with the same facts before them could not have reached the same conclusions reached by the Commission. *Cedar Chem. Co. v. Knight*, 99 Ark. App. 162, 258 S.W.3d 394 (2007).

The sole issue on appeal is whether substantial evidence exists to support the Commission's finding that the medical treatment sought by appellee is reasonably necessary in connection with his compensable injury. An employer shall promptly provide for an injured employee such medical services as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. § 11-9-508(a) (Supp. 2009). When

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<sup>1</sup>Appellee has not appealed from the denial of TTD benefits.

a claimant requests certain medical treatment, the claimant must prove by a preponderance of the evidence that the requested medical treatment is reasonably necessary. *Wal-Mart Stores, Inc. v. Brown*, 82 Ark. App. 600, 120 S.W.3d 153 (2003). Whether medical treatment is reasonably necessary is a question of fact for the Commission. *Diggs v. Cattlemen's Livestock Market, Inc.*, 2009 Ark. App. 249, 306 S.W.3d 20.

Appellee sustained a compensable injury when a stack of cardboard fell on him. Following his accident, appellee complained of pain and numbness. Appellee received conservative medical treatment that he contended did not help his symptoms. Although Dr. Braden indicated that appellee's MRI showed no objective findings related to appellee's compensable injury, Dr. Barrett-Tuck indicated that her review of the MRI revealed findings that might explain appellee's symptoms, and she recommended diagnostic tests designed to further assess appellee's medical condition. The opinion of Dr. Barrett-Tuck regarding the findings on the MRI is substantial evidence to support the Commission's award of additional medical treatment to appellee. We therefore affirm the decision of the Commission.

Affirmed.

PITTMAN and BAKER, JJ., agree.