Cite as 2009 Ark. App. 680

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA09-394

WAL-MART ASSOCIATES, INC., and CLAIMS MANAGEMENT, INC. APPELLANTS	**Opinion Delivered** October 21, 2009 APPEAL FROM THE ARKANSAS WORKERS' COMPENSATION COMMISSION [NO. F510979]
V.	
LISA EALEY APPELLEE	AFFIRMED

JOSEPHINE LINKER HART, Judge

Appellants, Wal-Mart Associates, Inc., and Claims Management, Inc., appeal from the decision of the Arkansas Workers' Compensation Commission finding that appellee, Lisa Ealey, suffered an eight-percent whole-body impairment as a result of an injury to her right shoulder, and further, that she suffered an additional five-percent wage-loss disability. Appellants argue that appellee's impairment rating was not valid and she thus does not have a whole-body impairment. Further, they argue that because she does not have an impairment, she did not suffer a wage-loss disability, or alternatively, because she was making a higher hourly wage than at the time of her accident, she did not have a wage-loss disability. We affirm.

As found in an earlier proceeding, appellee suffered a compensable injury to her right shoulder on October 6, 2005. Appellee subsequently sought permanent-partial-disability

benefits. According to a letter dated July 8, 2008, appellee's treating physician concluded that appellee suffered an eight-percent whole-body impairment. Appellee's treating physician relied on a number of factors, including a pre-operative MRI study and the physician's objective findings during surgery to appellee's right shoulder.

In a hearing before the administrative law judge, the ALJ found that appellee suffered an eight-percent whole-body impairment and a five-percent wage-loss disability for an overall permanent partial disability of thirteen percent to the body as a whole. The Commission adopted the ALJ's findings. On appeal, appellants challenge appellee's impairment rating, claiming that appellee's treating physician considered range-of-motion testing, which appellants assert was not shown to be objective and measurable physical findings.

Our workers' compensation statutes provide that "[a]ny determination of the existence or extent of physical impairment shall be supported by objective and measurable physical or mental findings." Ark. Code Ann. § 11-9-704(c)(1)(B) (Repl. 2002). Objective findings are "those findings which cannot come under the voluntary control of the patient." Ark. Code Ann. § 11-9-102(16)(A)(i) (Supp. 2007).

There is, however, no requirement that medical testimony be based solely or expressly on objective findings, only that the medical evidence of the injury and impairment be *supported by* objective findings. *Singleton v. City of Pine Bluff*, 97 Ark. App. 59, 244 S.W.3d 709 (2006). Here, the physician's conclusions on impairment were supported by objective and measurable physical findings, specifically the preoperative MRI study and the physician's

objective findings during surgery. While appellants dismiss these findings as being irrelevant to impairment because appellee had not completed her postoperative healing period when the observations were made, the findings are nevertheless supporting objective findings. We cannot say that substantial evidence does not support the Commission's decision.

Further, appellants challenge the finding that appellee suffered a wage-loss disability, arguing that because appellee does not have a valid impairment rating, she cannot have a wage-loss disability. *See Wal-Mart Stores, Inc. v. Connell*, 340 Ark. 475, 10 S.W.3d 882 (2000). As we have concluded that appellee's impairment rating was supported by substantial evidence, appellants' argument is moot.

Appellants alternatively argue that because appellee earned a higher hourly wage when she voluntarily left her employment in March 2008 than she earned on the date of her compensable injury in October 2005, appellee did not suffer a wage-loss disability. Our workers' compensation statutes provide that "so long as an employee, subsequent to his or her injury, has returned to work, has obtained other employment, or has a bona fide and reasonably obtainable offer to be employed at wages equal to or greater than his or her average weekly wage at the time of the accident, he or she shall not be entitled to permanent partial disability benefits in excess of the percentage of permanent physical impairment established by a preponderance of the medical testimony and evidence." Ark. Code Ann. § 11-9-522(b)(2) (Repl. 2002). We note that "[c]ompensation shall be computed on the average weekly wage earned by the employee under the contract of hire in force at the time of the

accident and in no case shall be computed on less than a full-time workweek in the employment." Ark. Code Ann. § 11-9-518(a)(1) (Repl. 2002).

The issue turns on appellee's "average weekly wage." While appellants note in their argument appellee's hourly wages, they do not discuss appellee's "average weekly wages." We will not develop an issue for a party. *See, e.g.*, *Alexander v. McEwen*, 367 Ark. 241, 239 S.W.3d 519 (2006).

Affirmed.

PITTMAN and GLOVER, JJ., agree.

***Bassett Law Firm, LLP*, by: *Dale W. Brown*, for appellants.**

***Hunter Law Firm*, by: *Scott Hunter*, for appellee.**