

ARKANSAS COURT OF APPEALS

DIVISION III
No. CA08-1267

AEGON INSURANCE, USA and
ST. PAUL TRAVELERS
APPELLANTS

V.

DEANN DURHAM-GILPATRICK and
SECOND INJURY FUND
APPELLEES

Opinion Delivered APRIL 22, 2009

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. E911422]

AFFIRMED

M. MICHAEL KINARD, Judge

Appellants, Aegon Insurance USA and St. Paul Travelers, appeal from a decision of the Workers' Compensation Commission finding that appellee is entitled to additional medical benefits in the form of prescription medications. We affirm.

Appellee sustained a compensable back injury in 1998. Appellants have paid appellee medical benefits, temporary-total disability benefits, and permanent-partial disability benefits in connection with the 1998 injury. On or about April 4, 2006, appellee was involved in an incident during which she was struck by a vehicle while walking through a parking lot. Appellee was taken to the emergency room complaining of pain, especially in her lower back. At the time of the 2006 incident, the only medical treatment appellee was receiving in connection with her 1998 injury was prescription medications, including morphine, Celebrex, and Lidoderm patches. Following the 2006 incident, appellee complained of increased pain

in her lower back, as well as other parts of her body. She also complained of new symptoms, which were pain in her left leg and groin area. Appellee was prescribed Hydrocodone and Skelaxin following the 2006 incident.¹ Appellee testified that after she took the prescribed medications, her pain level returned to the same level it was prior to the 2006 incident. According to appellee's testimony, her back felt the same on the date of the hearing as it did prior to the 2006 incident. In addition, an April 21, 2006 MRI report states that there is no difference between the MRI taken on that date and one taken prior to the 2006 incident.

In reviewing a decision of the 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. *Parker v. Comcast Cable Corp.*, 100 Ark. App. 400, 269 S.W.3d 391 (2007). This court will not reverse the Commission's decision unless it is convinced that fair-minded people with the same facts before them could not have reached the same conclusions reached by the Commission. *Smith v. County Market/Southeast Foods*, 73 Ark. App. 333, 44 S.W.3d. 737 (2001).

In arguing that the Commission's decision should be reversed, appellants rely upon Arkansas Code Annotated section 11-9-102(4)(F)(iii) (Supp. 2007), which states that "benefits shall not be payable for a condition which results from a nonwork-related independent

¹Appellee did not request that appellants pay for the prescription for Hydrocodone, because it was prescribed in connection with a neck injury she sustained as a result of the 2006 incident.

intervening cause following a compensable injury which causes or prolongs disability or a need for treatment.” Appellants’ reliance upon section 11-9-102(4)(F)(iii) is misplaced.

While it is not questioned that the 2006 incident occurred and was not work-related, those facts alone do not establish an independent intervening cause relieving appellants of their obligation to pay the benefits sought by appellee. When the primary injury is shown to have arisen out of and in the course of the employment, the employer is responsible for any natural consequence that flows from that injury, and the basic test is whether there is a causal connection between the injury and the consequences of such. *K II Constr. Co. v. Crabtree*, 78 Ark. App. 222, 79 S.W.3d 414 (2002). Whether there exists an independent intervening cause is a question of fact for the Commission. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 82 S.W.3d 560 (2002). Appellee’s need for the treatment sought is causally connected to the compensable injury, because appellee was being prescribed these same medications as part of the treatment for her 1998 compensable injury prior to the 2006 incident and was taking the medications at the time of the 2006 incident. There is no evidence in the record that it was being contemplated that appellee would cease requiring medications for her compensable injury.

There is also no evidence in the record that the 2006 incident prolonged appellee’s disability or caused a need for the treatment sought by appellee. As noted above, the April 21, 2006 MRI showed no new changes to appellee’s lumbar spine following the 2006 incident. Appellee is not seeking medical treatment from appellants that is any different from that she was receiving prior to the 2006 incident, with the exception of the prescription for Skelaxin,

which replaced the prescription for Celebrex, which she was taking prior to 2006, because the Celebrex caused stomach problems. There is no independent intervening cause for appellee's need for treatment, because there is no evidence that the 2006 incident caused her need for the treatment sought. *See Davis v. Old Dominion Freight Line, Inc.*, 341 Ark. 751, 20 S.W.3d 326 (2000). Therefore, the decision of the Commission to award the benefits sought by appellee is supported by substantial evidence and is affirmed.

Affirmed.

HART and GLADWIN, JJ., agree.