

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA11-376

JOSEPH FILI

APPELLANT

V.

CITY OF JACKSONVILLE and
ARKANSAS MUNICIPAL LEAGUE
APPELLEES

Opinion Delivered OCTOBER 26, 2011

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. F512804]

AFFIRMED

ROBIN F. WYNNE, Judge

Joseph Fili appeals from a decision of the Arkansas Workers' Compensation Commission in which the Commission denied his claim for permanent-partial impairment benefits and permanent-total disability benefits or, in the alternative, wage-loss benefits. Appellant argues that the decision of the Commission is not supported by substantial evidence. We disagree and affirm.

Appellant worked for the City of Jacksonville as a firefighter. Appellant sustained an admittedly compensable myocardial infarction on November 2, 2005, while performing a FEATS test, which is a Firefighter's Endurance and Agility Test. Appellant had previously had triple bypass surgery subsequent to a myocardial infarction in 1995, after which he returned to work as a firefighter. Between 1995 and 2005, appellant had occasional heart-related issues, but the record does not reveal that he underwent any surgery related to those



issues. The medical records from 1995 reveal that appellant had coronary artery disease. An emergency room report from November 2, 2005, indicated that the disease was still present.

Dr. Mark A. St. Pierre performed coronary angioplasty on appellant on November 2, 2005. Dr. St. Pierre performed another coronary angioplasty on appellant on January 18, 2006. On February 20, 2006, Dr. St. Pierre's partner, Dr. Rod Parkhurst, noted that appellant had ischemia and that if the condition persisted after two months of therapy, appellant would not be able to return to work as a firefighter. In an April 10, 2006 letter to appellant's counsel, Dr. Parkhurst states that appellant's myocardial infarction on November 2, 2005, was small and that appellant could no longer pursue a career as a firefighter due to his coronary-artery ischemia. Dr. Parkhurst testified in his deposition that the ischemia did not occur as a result of the myocardial infarction. Dr. Parkhurst also testified that appellant has some permanent impairment as a result of his heart problems. However, Dr. Parkhurst opined that the November 2, 2005 myocardial infarction played a very minor role in appellant's impairment, which he placed at less than twenty-five percent.

Appellant testified before the Commission that he was not under any physical restrictions prior to his 2005 infarction and that, since the infarction, he is limited in the things that he can do. Appellant stated that he previously had a part-time job for a funeral home, which he lost because it required lifting he could not perform. Appellant testified that he was able to perform motorcycle escorts for funeral processions. After his compensable infarction, appellant applied for and received retirement benefits, which he testified is his only source of income. While he was employed as a firefighter, appellant was an adjunct professor at the Arkansas Fire Academy, but he has since lost his certifications. Appellant testified that he



sought employment teaching courses in CPR, as well as safety and industrial fire prevention, but had not been successful. Appellant had previously worked as a paramedic but stopped that employment for reasons related to his 1995 triple bypass.

In an opinion filed on June 11, 2010, the administrative law judge found that appellant failed to establish entitlement to permanent-partial impairment benefits because he failed to establish that his compensable myocardial infarction is the major cause of his heart-related impairment. The law judge also found that appellant failed to prove entitlement to either permanent-total disability benefits or wage-loss disability benefits because he failed to prove that his compensable myocardial infarction is the major cause of his disability. Appellant appealed to the Commission, and in an opinion filed on January 13, 2011, the Commission affirmed and adopted the decision of the law judge. Appellant has now appealed to this court.

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 a case such as this one, where the Commission denies benefits because a claimant failed to meet his or her burden of proof, we affirm if the Commission's decision displays a substantial basis for the denial of relief. *Crudup v. Regal Ware, Inc.*, 341 Ark. 804, 20 S.W.3d 900 (2000).



The Commission denied appellant's claim for permanent-partial disability benefits and either permanent-total disability benefits or wage-loss disability benefits. The denial was based on the Commission's determination that appellant failed to prove that his compensable myocardial infarction was the major cause of either his permanent impairment or his disability. When an employee sustains a compensable injury, permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment. Ark. Code Ann. § 11-9-102(4)(F)(ii)(a) (Supp. 2009). Major cause means more than fifty percent of the cause. Ark. Code Ann. § 11-9-102(14)(A). Dr. Parkhurst stated, both in the letter to appellant's counsel and in his deposition, that appellant's November 2, 2005 myocardial infarction was small. He explicitly stated during his deposition that the 2005 myocardial infarction played less than a twenty-five-percent role in appellant's current impairment, which is less than the more than fifty percent required for the incident to constitute major cause as defined in section 11-9-102. In addition, Dr. Parkhurst testified that appellant's ischemia, which is the condition that ended his career as a firefighter, did not occur as a result of his myocardial infarction. Dr. Parkhurst's testimony was the only evidence in the record regarding the role of the 2005 myocardial infarction with respect to appellant's impairment or disability. Therefore, we hold that the Commission had a substantial basis upon which to deny appellant's claim for benefits.

Affirmed.

ROBBINS and GLOVER, JJ., agree.

Kenneth A. Olsen, for appellant.

J. Chris Bradley, for appellee.