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ARKANSAS COURT OF APPEALS

DIVISION I
No. CA11-562

THOMAS B. QUEEN APPELLANT V. NORTEL NETWORKS, INC., and TRAVELERS PROPERTY & CASUALTY COMPANY APPELLEES	**Opinion Delivered** February 29, 2012 APPEAL FROM THE ARKANSAS WORKERS' COMPENSATION COMMISSION [NO. F213364] REVERSED AND REMANDED

RAYMOND R. ABRAMSON, Judge

On February 18, 2001, appellant Thomas B. Queen was working as a field technician with Nortel Networks when he allegedly sustained injuries to his right arm and shoulder after lifting a toolbox. His employment was terminated with Nortel on September 9, 2002, because no light duty work was available. Queen subsequently sought reimbursement for his out-of-pocket expenses totaling $52,341.05; temporary-total-disability benefits from February 18, 2001, to January 29, 2003, and from June 11, 2008, to August 2008; and attorney's fees. Nortel disputed the compensability of the injury, claiming, in part, that Queen was not injured on the job, and requested an offset against benefits paid for short- and long-term disability.

A hearing was held on Queen's claims on May 19, 2010. Three witnesses testified: Queen; his father, Bruce Queen; and a family friend, Cathy Zmudzinski.

Queen testified that, on Sunday, February 18, 2001, he injured his right arm lifting his employee toolbox while moving it from one vehicle to another. His father, Bruce Queen, heard him scream and ran to see what had happened. He testified that his father, who also worked for Nortel, was his supervisor for the job they were reporting for that date.[1] He stated that he continued to work, but the pain worsened. He went to see his family physician, Dr. McCrary, the day after the alleged incident. The medical notes from that visit indicated a history of right-arm pain and swelling starting on Sunday after "moving furniture." Queen testified that, while he had moved furniture on Saturday, he was not injured while doing so, and, when he discovered the mistake in the medical history, his doctor corrected the mistake.

Bruce Queen corroborated his son's testimony that he was injured moving a toolbox on February 18, 2001. He testified that he was Queen's supervisor that day and that the accident was reported to him and was work related. He and Cathy Zmudzinski both corroborated Queen's testimony that Queen had not been injured moving furniture on Saturday.

After hearing the evidence and reviewing the files and medical records presented, the administrative law judge (ALJ) found that "[b]ased on the inconsistencies in the claimant's testimony regarding the identity of his supervisor and the 'mistakes' made by several different medical providers in describing the history of injury, as well as the lack of definitive diagnosis based on objective medical evidence," Queen had failed to prove that he sustained a work-related injury arising out of and in the course and scope of his employment. Queen

[1]Queen testified in his deposition that his supervisor was Brad Payne.

appealed the decision of the ALJ to the full Commission. Thereafter, the Commission completed a de novo review of the record and affirmed and adopted the findings of the ALJ. Queen appeals the determination of the Commission that he had failed to prove a compensable injury.

Typically, on appeal to this court, we review only the decision of the Commission, not that of the ALJ. *Daniels v. Affiliated Foods Sw.*, 70 Ark. App. 319, 17 S.W.3d 817 (2000). In this case, the Commission affirmed and adopted the ALJ's opinion as its own, which it is permitted to do under Arkansas law. *Death & Permanent Total Disability Trust Fund v. Branum*, 82 Ark. App. 338, 107 S.W.3d 876 (2003). Moreover, in so doing, the Commission makes the ALJ's findings and conclusions the findings and conclusions of the Commission. *See ITT/Higbie Mfg. v. Gilliam*, 34 Ark. App. 154, 807 S.W.2d 44 (1991). Therefore, for purposes of our review, we consider both the ALJ's opinion and the Commission's majority opinion.

In appeals involving claims for workers' compensation, we view the evidence in the light most favorable to the Commission's decision and affirm the decision if it is supported by substantial evidence. *Galloway v. Tyson Foods, Inc.*, 2010 Ark. App. 610, 378 S.W.3d 210. Substantial evidence exists if reasonable minds could reach the Commission's conclusion. *Id.* The issue is not whether the appellate court might have reached a different result from the Commission; if reasonable minds could reach the result found by the Commission, the appellate court must affirm. *Id.*

However, the Commission is obliged to make findings and conclusions with sufficient

detail and particularity to allow us to decide whether its decision is in accordance with the law. *Wright v. Am. Transp.*, 18 Ark. App. 18, 709 S.W.2d 107 (1986). We cannot do so on this record because the Commission's findings are too vague to permit meaningful review. The Commission found that, "[b]ased on the inconsistencies in [Queen's] testimony regarding the identity of his supervisor and the 'mistakes' made by several different medical providers in describing the history of injury, as well as the lack of definitive diagnosis based on objective medical evidence," Queen had failed to prove that "he sustained a work-related injury arising out of and in the course of his employment."

It is unclear to us how the inconsistency in Queen's identification of his supervisor would affect the determination of whether he suffered a compensable injury in the course and scope of his employment, especially since the issue regarding proper notice was found in Queen's favor earlier in the Commission's opinion. It is further unclear whether the Commission found that Queen failed to prove compensability because (1) his testimony as a whole was incredible, given the inconsistencies noted in the opinion; (2) his testimony and that of two other witnesses as to causation/mechanism of injury (toolbox v. furniture) was incredible; (3) there was no definitive diagnosis given for his injury (despite no statutory requirement for a "definitive diagnosis"); or (4) all or some other combination of the above. As a result, we reverse and remand for the Commission to make findings sufficient to permit us a meaningful review. *Excelsior Hotel v. Squires*, 83 Ark. App. 26, 115 S.W.3d 823 (2003).

Reversed and remanded.

ROBBINS and WYNNE, JJ., agree.

H. Oscar Hirby and *Robert S. Tschiemer*, for appellant.

Phillip P. Cuffman, for appellees.