

ARKANSAS COURT OF APPEALS

DIVISION II
No. CA12-295

CRYSTAL LARRY

APPELLANT

V.

LEGACY HOSPICE

APPELLEE

Opinion Delivered November 7, 2012

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION [NO. G006809]

AFFIRMED

JOHN MAUZY PITTMAN, Judge

Appellant, Crystal Larry, was employed as a certified nurse's assistant by appellee, Legacy Hospice, when she sustained a compensable back injury on August 5, 2010. She was provided medical treatment. Subsequently, she filed a claim for additional benefits based on a seven-percent anatomical-impairment rating assigned by her family doctor. After a hearing, the Commission denied benefits, finding that appellant had failed to prove that she sustained a work-related anatomical impairment or that she was entitled to wage-loss benefits. We affirm.

In determining the sufficiency of the evidence to support decisions of the Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings and affirm if they are supported by substantial evidence, *i.e.*, evidence that a reasonable person might accept as adequate to support a conclusion. *Sykes v. King Ready Mix, Inc.*, 2011 Ark. App. 271. Questions of weight and

credibility are within the sole province of the Commission, which is not required to believe the testimony of the claimant or of any other witness but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Pat Salmon & Sons, Inc. v. Pate*, 2009 Ark. App. 272, 307 S.W.3d 46. 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 conclusions arrived at by the Commission. *Pulaski County Special School District v. Glover*, 2010 Ark. App. 150.

In this case, the Commission's refusal to adopt the seven-percent anatomical-impairment rating, or to assess appellant's degree of impairment itself by consulting the AMA Guides, was consistent with its finding that appellant failed to prove that the injury upon which the seven-percent rating was based was in fact caused by the compensable injury. Permanent benefits may 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) (Repl. 2012). Here, the issue of causation turns entirely upon questions of credibility, because there was evidence that the family doctor withdrew his seven-percent impairment rating upon learning that he had not been provided with all of the pertinent facts regarding appellant's medical history; that another physician found no anatomical impairment whatsoever; that appellant had engaged in symptom magnification and drug-seeking behavior; and that appellant was less than forthcoming about recent, documented symptoms of severe back pain and disc injury that she experienced soon before her compensable injury and the consequent medical testing that revealed the asymptomatic defect upon which she based her claim. On

this record, we cannot say that reasonable minds could not conclude that appellant failed to prove causation, and we therefore affirm.

Affirmed.

ABRAMSON and MARTIN, JJ., agree.

Frye Law Firm, P.A., by: *William C. Frye*, for appellant.

Worley, Wood & Parrish, P.A., by: *Melissa Wood*, for appellees.