

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA08-1340

WILLIAM BEAN,

APPELLANT

V.

GLOBAL GEOPHYSICAL SERVICES
and LIBERTY MUTUAL FIRE
INSURANCE CO.,

APPELLEES

Opinion Delivered 15 APRIL 2009

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. F701212]

REVERSED AND REMANDED

D.P. MARSHALL JR., Judge

This case is about William Bean's bad knee. He appeals the Workers' Compensation Commission's decision denying him additional medical treatment in the form of a total right knee replacement. Because fair-minded persons with the same facts before them could not have reached the conclusion arrived at by the Commission, we reverse and remand for an award of benefits. *Williams v. L & W Janitorial, Inc.*, 85 Ark. App. 1, 3, 145 S.W.3d 383, 384 (2004).

We state the facts in the light most favorable to the Commission's decision. *Murphy v. Forsgren, Inc.*, 99 Ark. App. 223, 224, 258 S.W.3d 794, 797 (2007). Bean has had a bad right knee for almost twenty years. He injured it severely in a motorcycle accident in 1990. Between then and 2002, Bean had at least five surgeries on his knee.

He has also filed several workers' compensation claims. Throughout 2005 and 2006, he did not take any medication for the knee, did not have any medical restrictions, and did not have any problems performing his work duties. At some point, Bean started working for Global Geophysical Services as a seismograph driller. His job required him to get on and off heavy equipment frequently and to walk and work in rough terrain. He did all these things, notwithstanding his bad right knee, without any problems. Then, in late January 2007, Bean fell on the job and hurt his right knee again. He immediately informed his drill coordinator and went to the emergency room.

Bean eventually came under the care of Dr. John Yocum. Dr. Yocum had previously performed surgery on Bean's knee. A few days after Bean's fall, Dr. Yocum noted his impression that "[Bean] has pre-existing osteoarthritis. He has exacerbation with his recent injury." Dr. Yocum prescribed medication, recommended physical therapy, and put Bean on light-duty work.

Bean continued to see Dr. Yocum for the next few months. In late February, Dr. Yocum stated "I feel [Bean's] continuing symptoms are surely related to his osteoarthritis." Finally, in April, Bean saw Dr. Yocum and reported continued knee pain. Dr. Yocum wrote, "I feel that now, two and a half months out from injury with significant continuing apparent severe discomfort, he is going to have to have a posterior stabilized knee replacement."

That knee replacement is the issue. Global accepted the January 2007 injury as compensable and paid some medical benefits. But it refused to pay for the knee replacement, arguing that Bean's pre-existing knee problems, not his January 2007 fall on the job, created the need for the surgery. The administrative law judge found that the knee replacement was reasonably necessary in connection with Bean's compensable 2007 work injury. The Commission disagreed, with one Commissioner dissenting, and denied Bean's claim for additional medical treatment.

When the Commission denies a workers' compensation claim, the substantial-evidence standard of review requires us to affirm if the Commission's opinion displays a substantial basis for the denial of relief sought. *Stiger v. State Line Tire Serv.*, 72 Ark. App. 250, 262, 35 S.W.3d 335, 342 (2000). Stated differently, we will not reverse unless fair-minded persons with the same facts before them could not have arrived at the Commission's conclusion. *Williams*, 85 Ark. App. at 3, 145 S.W.3d at 384.

In denying Bean's claim for a knee replacement, the Commission attributed Bean's need for a knee replacement solely to his pre-existing conditions:

In our opinion, it is clear that the knee replacement recommended by Dr. Yocum is due to the claimant's pre-existing osteoarthritis and the condition that preceded the 2007 event. There is absolutely no evidence in the record that the arthritis was made worse by the claimant's admittedly compensable incident in January of 2007. Dr. Yocum has not stated that the claimant's condition was due to the incident on January 23, 2007. In fact, Dr. Yocum has consistently stated throughout that the claimant's condition was due to his pre-existing osteoarthritis and his pre-existing chronic ligament damage.

The Commission was incorrect. Dr. Yocum attributed Bean's need for a knee replacement to his osteoarthritis, but he also concluded that Bean's 2007 fall at work exacerbated the pre-existing arthritis. The Commission has the exclusive authority to weigh conflicting medical opinions. *Williams*, 85 Ark. App. at 4, 145 S.W.3d at 384. But there were no other opinions here that conflicted with Dr. Yocum's.

This record echoes *Williams v. J & L Janitorial, Inc.* Williams suffered a knee injury that aggravated her pre-existing osteoarthritis. The Commission denied Williams's claim for a knee replacement because there was "no evidence that the degenerative disease was worsened by the work-related injury." 85 Ark. App. at 9, 145 S.W.3d at 388. We pointed out that an employer takes each employee as he finds him. The undisputed medical testimony showed that the work injury was a factor in Williams's inability to work and need for knee-replacement surgery. 85 Ark. App. at 10, 145 S.W.3d at 389. Therefore, the knee replacement was reasonably necessary treatment in connection with Williams's compensable injury. *Ibid.*

Williams governs this case. Although Bean started with a bad knee, the undisputed evidence showed that his 2007 fall exacerbated his pre-existing arthritis, which was a factor in his need for a knee replacement. Reasonable persons with these facts before them could not have reached the Commission's conclusion about medical treatment. 85 Ark. App. at 3, 145 S.W.3d at 384. We therefore reverse and remand for an award of medical benefits.

GRUBER and GLOVER, JJ., agree.