

# ARKANSAS COURT OF APPEALS

DIVISION II

No. CA09-1130

RAYE A. WEST

APPELLANT

V.

STUTTGART REGIONAL MEDICAL  
CENTER and RISK MANAGEMENT  
RESOURCES

APPELLEES

**Opinion Delivered** SEPTEMBER 22, 2010

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. F800831]

AFFIRMED

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**M. MICHAEL KINARD, Judge**

Raye West, acting pro se, appeals from the Commission's denial of her claim for benefits. On appeal, appellant argues that the Commission erred in finding that she failed to prove that she sustained a compensable gradual-onset injury to her right knee. We affirm the decision of the Commission.

Appellant worked as a medical transcriptionist for Stuttgart Regional Medical Center. Appellant testified that her job consisted of continuous typing eight hours per day. While she transcribed, appellant used a foot pedal that she would move in different directions in order to play the dictation, fast-forward, and rewind. Appellant used her right foot to work the pedal. Appellant testified that from October 2006 until June 2007, the transcription department was short one employee, which resulted in appellant working 275 hours of overtime during that period. A few months after the new employee started, appellant noticed pain in her right leg. According to appellant, the pain was not in her knee, but was in her

leg below the knee and went down into her foot. Appellant testified that, prior to this, she had experienced “popping” in her knee but did not seek treatment for it.

On January 17, 2008, appellant went to the emergency room complaining of pain in her right leg. Appellant was given a muscle relaxer and advised to stay off her leg. Appellant then scheduled an appointment with Dr. James Bryan. Dr. Bryan examined appellant and referred her to Dr. Jason Stewart, who prescribed conservative treatment. Appellant was referred to Dr. Reginald Rutherford, who ordered an MRI that showed a meniscus tear. Appellant was then referred to Dr. Eric Gordon, an orthopedic surgeon. On May 29, 2008, appellant underwent arthroscopic surgery on her right knee. In a June 9, 2008 office-visit report, Dr. Gordon states that it is difficult to determine whether appellant’s injury was work-related. In a June 23, 2008 letter to appellant, Dr. Gordon explains that meniscus tears are often caused by a “twisting type injury.” Dr. Gordon goes on to say that appellant’s meniscus tear “may have very well been caused by the repetitive twisting [appellant was] doing with [her] leg while doing transcription.” Appellant’s supervisor, Lura Wilson, testified that transcription did not require the transcriptionist to physically turn his or her knee. Appellees arranged for appellant to be examined by Dr. Earl Peoples. Appellant refused to attend the examination, so Dr. Peoples reviewed appellant’s medical records. After reviewing appellant’s medical records, Dr. Peoples determined that appellant’s problems with her knee were not related to her work, but rather to “osteoarthritic changes that are developing in her knee.”

In an opinion filed on January 13, 2009, the administrative law judge (ALJ) found that

appellant proved a gradual-onset injury to her right knee. The case was appealed to the Commission and, in an opinion filed June 12, 2009, the Commission reversed the decision of the ALJ and found that appellant failed to prove that she sustained a compensable injury to her right leg. Specifically, the Commission found that appellant failed to establish that her job duties entailed rapid and repetitive motion and that Dr. Gordon's causation opinion was not stated within a reasonable degree of medical certainty. Appellant filed a notice of appeal to this court on July 14, 2009.

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. *Dorris v. Townsends of Ark., Inc.*, 93 Ark. App. 208, 218 S.W.3d 351 (2005). 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).

In its opinion reversing the decision of the ALJ, the Commission found that Dr. Gordon's causation opinion was "equivocal" and did not satisfy the requirements necessary to establish a compensable injury. Medical opinions addressing compensability must be stated within a reasonable degree of medical certainty. Ark. Code Ann. § 11-9-102(16)(B) (Supp. 2009). Expert opinions based upon "could," "may," or "possibly" lack the required definiteness. *Frances v. Gaylord Container Corp.*, 341 Ark. 527, 533, 20 S.W.3d 280, 284 (2000). In his June 23, 2008 letter to appellant, which is the only causation opinion in the record linking appellant's alleged injury to her work activity, Dr. Gordon states that appellant's injury "may" have been caused by her work activity. Based upon the supreme court's holding in *Frances, supra*, Dr. Gordon's opinion is not stated within the degree of certainty required under Arkansas Code Annotated section 11-9-102(16)(B). We hold that the medical evidence in the record provides a substantial basis upon which the Commission could deny appellant's claim for benefits. Because the medical evidence provides a substantial basis for the Commission's decision, it is unnecessary for us to consider the Commission's other findings.

Affirmed.

ROBBINS and BROWN, JJ., agree.