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ARKANSAS COURT OF APPEALS

DIVISION I

No. CV-22-229

NUCOR YAMATO STEEL CO.; ARCH
INSURANCE CO./SEDGWICK CLAIMS
MANAGEMENT SERVICES, INC.

APPELLANTS

V.

LONNIE ECHOLS

APPELLEE

OPINION DELIVERED FEBRUARY 8, 2023

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NOS. G902953 & H000123]

AFFIRMED

ROBERT J. GLADWIN, Judge

This appeal arises from a decision and award of the Arkansas Workers' Compensation Commission (the "Commission") finding that appellee Lonnie Echols's ("Echols's") injury to his left shoulder was a compensable consequence of his prior work-related injury to his right shoulder. The Commission entered its ruling on January 7, 2022, awarding Echols temporary total-disability ("TTD") and medical benefits for his left shoulder. The appellants argue that the decision is contrary to the law, and furthermore, substantial evidence does not support the Commission's decision. We affirm.

I. *Background Facts*

Echols, age fifty-four, started working at Nucor Yamato Steel Company ("Nucor") in 1996 as a "fire bricker." The position undisputedly required heavy manual labor. On April 24, 2019, Echols was lifting a heavy load on his right shoulder when he heard a pop and began to

have significant pain. Nucor provided treatment, and on May 7, 2019, Dr. Mark Harriman noted that the injury occurred in the context of picking up a heavy load and diagnosed him with a complete rotator-cuff tear. Dr. Harriman performed surgery on Echols's right shoulder on July 17, 2019. The postoperative diagnoses were "chronically torn biceps tendon" and "chronically torn superior labrum with flap tear." Echols received follow-up treatment after surgery, and on September 5, 2019, Dr. Harriman released him back to restricted-work duty at Nucor.

Echols returned to work on September 23 and was determined to have reached "maximum medical improvement" on October 21, 2019, and assigned a whole-body impairment rating of 4 percent. At this time, Dr. Harriman, however, noted that Echols was experiencing some early mild symptoms in his left shoulder. Subsequently, Nucor authorized physical therapy to treat Echols's left shoulder. Echols contends that the left-shoulder pain continued but that he continued to work at Nucor through approximately November 22, 2019. Echols had a left-shoulder MRI on December 24, 2019, and Dr. Matthew Baker assessed "biceps tendonitis" and a "glenoid labral tear." Dr. Baker performed surgery on Echols's left shoulder on September 23, 2020.

Echols filed a claim against Nucor, alleging that Nucor's denial of his claim for his left-shoulder injury was improper. Specifically, Echols alleged that he sustained a compensable left-shoulder injury in the scope and course of employment; therefore, he is entitled to TTD benefits, medical benefits, and attorney's fees. In response, appellants Nucor and Arch Insurance Company/Sedgwick Claims Management Services, Inc. (collectively referred to herein as "Nucor"), contended that Echols did not suffer a compensable work-related injury because he did not report an accident; rather, Nucor contended that his left-shoulder condition was a

gradual injury. Furthermore, because Echols’s employment did not involve “rapid and repetitive activity,” Nucor maintains that his left-shoulder injury is not compensable.

On November 6, 2020, an administrative law judge (“ALJ”) held a hearing to determine whether Echols had sustained a compensable left-shoulder injury. The ALJ filed an opinion on February 22, 2021, stating that Echols did not prove he sustained a compensable injury to his left shoulder. However, the judge reserved the issue of whether Echols sustained an injury to his left shoulder as a compensable consequence of his right-shoulder injury because the parties never stipulated in the proceedings that Echols sustained a compensable right-shoulder injury. Echols appealed the decision to the Commission, and the matter was remanded to the ALJ to adjudicate whether Echols’s left-shoulder injury was a compensable consequence of his prior injury. On remand, the ALJ found that Echols failed to prove he sustained a compensable left-shoulder injury as a result of a “specific incident” or “gradual onset” but that he proved by a preponderance of evidence that his left-shoulder injury was a compensable consequence of his prior work-related right-shoulder injury.

Nucor appealed the ALJ’s decision to the Commission. After reviewing the record and Echols’s testimony—which the Commission found to be credible—it determined that the left-shoulder injury was a “natural consequence” of the compensable right-shoulder injury. As a result, the Commission held that Echols was entitled to TTD beginning November 23, 2019, until a date yet determined. Nucor appealed the Commission’s finding and award of benefits, and this appeal followed.

II. *Standard of Review*

When reviewing a decision of the Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the findings of the Commission and affirm that decision if it is supported by substantial evidence. *Rothrock v. Advanced Env'tl Recycling*, 2018 Ark. App. 88, at 4, 544 S.W.3d 61, 64. Substantial evidence exists only if reasonable minds could have reached the same conclusion without resort to speculation or conjecture. *White Consol. Indus. V. Galloway*, 74 Ark. App. 13, 45 S.W.3d 396 (2001). The Commission is the ultimate arbiter of weight and credibility. *Fuller v. Pope Cty. Judge*, 2018 Ark. App. 1, at 5, 538 S.W.3d 851, 855. 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. *Cedar Chem. Co. v. Knight*, 99 Ark. App. 162, 258 S.W.3d 394 (2007). Therefore, the issue is not whether we might have reached a different result or whether the evidence would have supported a contrary finding. *Geo Specialty Chem. v. Clingan*, 69 Ark. App. 369, 13 S.W.3d 218 (2000). This court has held that we cannot undertake a de novo review of the evidence because we are limited by our standard of review in workers'-compensation cases. See *K II Constr. Co. v. Crabtree*, 78 Ark. App. 222, 79 S.W.3d 414 (2002).

III. *Points on Appeal*

On appeal, Nucor argues that the Commission's decision that Echols proved he sustained a compensable injury as a compensable consequence is not supported by substantial evidence and is contrary to law; thus, it should be reversed.

IV. *Discussion*

Nucor argues that this appeal concerns the legal concept of a compensable consequence; therefore, it is a question of law that this court should review de novo. Specifically, the appellants contend the Commission used an incorrect interpretation, analysis, and application of the law regarding compensable consequence to evaluate Echols's injury. However, because this court is limited by the well-established substantial-evidence standard of review in workers'-compensation cases, we decline to undertake a de novo review of the Commission's ruling. Rather, we must determine whether the Commission's decision is supported by substantial evidence.

Arkansas Code Annotated section 11-9-508(a) (Repl. 2012) requires an employer to provide an injured employee such medical services as may be reasonably necessary in connection with the injury received by the employee. When the primary injury is shown to have arisen out of and in the course of employment, the employer is responsible for any natural consequence that flows from that injury. *Ingram v. Tyson Mexican Original*, 2015 Ark. App. 519, at 5-6. For this rule to apply, the basic test is whether there is a causal connection between the injury and the consequences of such. *Id.* at 6. The burden is on the employee to establish the necessary causal connection. *Id.* Whether a causal connection exists between two episodes is a question of fact for the Commission. *Id.*

On appeal, Nucor argues that the Commission inappropriately used the concept of compensable consequence to avoid proving the requirements of a compensable gradual injury to Echols's left shoulder. As a result, Nucor contends the Commission unlawfully expanded the scope of a compensable consequence to include injuries beyond the original intent. Essentially,

Nucor takes issue with the established test that the Commission uses to determine whether there is a causal connection between the primary and subsequent injury.

In response, Echols maintains that the Commission correctly concluded that his left-shoulder injury was a “natural consequence” of his previous right-shoulder injury and was supported by objective medical evidence. We decline to discuss the merits of Nucor’s argument—framed as a question of law—because our appellate courts have made clear that the determination of whether the casual connection exists—making the subsequent injury a compensable consequence—is a question of fact for the Commission to determine because the “specialization and experience of the Commission make it better equipped” to analyze and translate evidence into findings of fact. See *Jeter v. B.R. McGinty Mech.*, 62 Ark. App. 53, 60, 969 S.W.2d 645, 650 (1998).

Nucor also contends that the Commission’s decision was not supported by substantial evidence. Specifically, appellants contend Echols merely suffered a new injury after returning to work and using his left shoulder over his painful right shoulder. Furthermore, Nucor asserts that compensable-consequence claims can only include connected body parts, such as a hurt knee subsequently damaging a claimant’s hip or an altered gait affecting a claimant’s back. However, Nucor cites no case law to support this argument.

This court is tasked with determining, in the light most favorable to the Commission, whether there exists evidence that a reasonable person might accept as adequate to support the decision. The Commission found as follows:

We note Dr. Harriman’s report on October 21, 2019 that the claimant was already experiencing some early mild symptoms of the left shoulder since the claimant’s return to work.

The Full Commission reiterated that the claimant was a credible witness. The claimant testified that he “babied” his right arm after returning to work “because it was still hurting.” The claimant testified, “I was doing a lot of work using my left—my left arm and shoulder.” The claimant began suffering from sharp pain in his left shoulder at work on or about October 28, 2019. As we have discussed, the respondent-employer authorized physical therapy for the claimant’s left shoulder but his pain symptoms increased. The case manager’s Closure Report dated November 6, 2019 corroborated the claimant’s testimony. The case manager reported, “He reported a new onset of pain in his left shoulder since returning to full duty.” The claimant testified that he was physically unable to continue performing his manual labor duties for the respondents after approximately November 22, 2019. A physical therapist’s report on December 6, 2019 corroborated the claimant’s testimony. The physical therapist noted that the claimant has been “overusing” his left upper extremity since returning to work for the respondents. An MRI of the claimant’s left shoulder on December 24, 2019 showed abnormal findings which included “severe rotator cuff tendinosis.” Dr. Baker corroborated the claimant’s testimony that the work-related pain symptoms in his left shoulder markedly increased on or about October 28. The claimant testified that Dr. Baker performed left shoulder surgery on February 21, 2020. The claimant testified that Dr. Baker had not yet released him to return to work.

After reviewing the entire record de novo, the Full Commission finds that the claimant proved by a preponderance of the evidence that he sustained an injury to his left shoulder as a natural consequence of his compensable right shoulder injury. The claimant proved that the medical treatment of record was reasonably necessary in connection with Ark. Code Ann. § 11-9-508(a) (Supp. 2021). Based on the record currently before us, we find that the claimant proved he remained within a healing period and was totally incapacitated from earning wages beginning November 23, 2019 until a date yet to be determined.

It is within the Commission’s province to weigh all the medical evidence and to determine credibility of witnesses and the weight to be accorded such. *Watson v. Highland Pellets, LLC*, 2022 Ark. App. 132, 643 S.W.3d 267. That is precisely what the Commission did here. Its decision turned largely on Echols’s credibility, the records from his physical therapist, and the records from Dr. Matthew Baker, who performed his left-shoulder surgery. In light of this and our standard of review, we find that there is substantial evidence supporting the Commission’s decision entitling Echols to workers’-compensation benefits. There exists

evidence in the record that a reasonable mind might accept as adequate to support the conclusion that a causal connection existed between Echols's compensable right-shoulder injury and the subsequent left-shoulder injury.

Nucor also argues on appeal that Echols's left-shoulder injury was not a compensable consequence of his prior injury but instead was a gradual-onset injury that must be caused by rapid and repetitive motion to be considered a compensable injury. *See* Ark. Code Ann. § 11-9-102(4)(A)(ii) (Repl. 2012). However, this argument is irrelevant. The Commission held that the subsequent injury was a compensable consequence of Echols's previous compensable injury; therefore, Echols was not required to prove that his left-shoulder injury was a compensable gradual injury caused by rapid and repetitive motions. Because we find that substantial evidence supports the Commission's decision, we need not address this argument on appeal.

V. *Conclusion*

We conclude that there was a substantial basis for the award of workers'-compensation benefits; thus, the Commission's decision is affirmed.

Affirmed.

ABRAMSON and BROWN, JJ., agree.

Zach Ryburn, for appellants.

Laura Beth York, for appellee.