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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
TRIAL COURT CASE NO.: 1423028

Cassandra D. Stallings, Employee, Respondent,

v.

Hubbell Power Systems, Employer and Liberty Mutual insurance Co., Carrier, Appellants.

Appellate Case No. 2021-000965

FINAL BRIEF OF RESPONDENT

Andrea C. Roche, Esquire
Mickle & Bass, LLC
Post Office Box 5639
Columbia, South Carolina 29250
(803) 929-0029
aroche@mickleandbass.com
SC Bar No. 7563
Attorney for Respondent

Everette Keith Chandler, Esquire
The Chandler Law Firm
P.O. Box 2391
Aiken, SC 29802
(803) 644-5335
echandler@thechandlerlawfirm.com
Attorney for Respondent

TABLE OF CONTENTS

Table of Authorities..... ii

Statement of Issue on Appeal..... 1

Statement of the Case..... 1

Facts..... 1

Argument

 I. THE DECISION OF THE WORKERS' COMPENSATION COMMISSION IS
 SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD 4

Conclusion..... 6

TABLE OF AUTHORITIES

CASES

Burnette v. City of Greenville, 401 S.C. 417, 426, 737 S.E.2d 200, 205 (Ct. App. 2012) 4

Hutson v. South Carolina State Ports Authority, 399 S.C. 381, 387, 732 S.E.2d 500, 503 (2012) 4

Davaut v. University of South Carolina, 418 S.C. 627, 795 S.E.2d 678 (2016)4

King v. International Knife and Saw-Florence,
395 S.C. 2d 437, 718 S.E.2d 227 (Ct. App. 2011)6

STATUTES

S.C. Code Ann. § 42-1-172(A).....4, 6

S.C. Code Ann. § 42-1-172(B).....5

S.C. Code Ann. § 42-15-20(C).....5

STATEMENT OF ISSUE ON APPEAL

1. DOES SUBSTANTIAL EVIDENCE IN THE RECORD SUPPORT THE FINDING OF THE WORKERS' COMPENSATION COMMISSION THAT THE CLAIMANT SUSTAINED A REPETITIVE TRAUMA INJURY?

STATEMENT OF THE CASE

Cassandra Stallings ("the claimant") filed this workers' compensation claim on January 3, 2020, asserting a repetitive trauma injury arising out of and in the course and scope of employment. The claimant contended she injured both arms through repetitive activities at work. The defendants denied the claim in its entirety. On June 10, 2020, a single commissioner heard the case, and by order dated September 29, 2020, the single commissioner denied the case finding (1) the date of accident was not supported by the medical evidence or testimony, (2) the medical evidence failed to establish a causal connection between the injury and the job, and (3) no medical evidence established permanent physical impairment or disability claimant.

The claimant appealed to the full commission. After a hearing, the Commission issued an order dated August 4, 2021 reversing the order of the single commissioner, finding the claimant proved a repetitive trauma injury, and that repetitive trauma injuries, by their nature, are progressive and cannot be tagged to a specific date. The defendants filed a notice of appeal to this court on September 2, 2021.

FACTS

The claimant offered the only testimony in the case. She has worked for the employer for many years, in the same department for almost the entire time. (R. p. 213, 92). She is part of an assembly line making 1200-1800 arrestors a day. (R. p. 104). At one point, the employer installed new machines in her department, and operating these new machines caused pain in her hands, wrists, and arms. (R. pp. 92-95, 100, 219). She complained to her supervisors about the pain she

was experiencing. (R. pp. 97-98, 108). She went on her own to Rural Health Service. On April 16, 2014, Nurse Practitioner Melendez noted the claimant was complaining of right wrist pain and that the claimant does repetitive pulling and lifting of electrical equipment at work. (R. p. 22). N.P. Melendez noted her hands and wrists showed abnormalities and diagnosed her with carpal tunnel syndrome. (R. p. 23) N.P. Melendez advised the claimant to rest and provided a work excuse for no pulling, lifting, or pushing at work. (R. p. 23).

The claimant asked the employer to send her to a doctor. The employer sent her to Dr. Youmans. On November 13, 2015, Dr. Youmans noted the claimant was there for a visit "covered under Worker's Compensation." (R. p. 25). The claimant was complaining of pain in her right arm, elbow, wrist, and hand. (R. p. 25). He noted aggravating factors included pulling and pushing on the machine at work. (R. p. 25). He noted a positive Finkelstein's test and Tinel's sign. (R. p. 26). He included carpal tunnel syndrome, neuralgia, neuritis, and radiculitis in his differential diagnosis. (R. p. 27).

The claimant returned to Dr. Youmas on December 14, 2015, with continued complaints of pain. (R. p. 30). Dr. Youmas was concerned her issues may be cervical radiculitis and recommended she follow up with an orthopaedist. (R. p. 31). Dr. Youmas completed two Forms 14B (South Carolina Worker's Compensation Physician's Statement) wherein he outlined her restrictions and need for additional medical care. (R. pp. 28-29). By signing the Form 14B, he also confirmed he had "been authorized by the Employer/Carrier to treat this Claimant for . . . her injury by accident pursuant to . . . § 42-1-172." (R. pp. 28-29).

On January 14, 2016, the claimant saw Dr. Youmas with continued complaints of pain. (R. p. 32). He noted that aggravating factors included pulling and pushing on the machine at work and that she was still having pain and swelling when she pulls and pushes on the machinery at

work. (R. p. 32). He noted a positive Tinel's sign. (R. p. 33). Dr. Youmas diagnosed cervical radiculitis and lateral epicondylitis and recommended physical therapy. (R. p. 34).

On June 5, 2017, the claimant saw Nurse Practitioner Abraham Weaver complaining of pain in her neck and bilateral arms. (R. p. 38). N.P. Weaver noted that the claimant had pain in both wrists, that it had been present since at least 2014, but that it had worsened in the last several weeks. (R. p. 39). He diagnosed bilateral carpal tunnel syndrome. (R. p. 41). The claimant saw Dr. Fulcher on June 28, 2017, with complaints of bilateral carpal tunnel syndrome. (R. p. 48). Dr. Fulcher recommended surgery for the left wrist. (R. p. 52).

She returned to N.P. Weaver on July 19, 2017, with pain and swelling in her wrists. (R. p. 44). She stated she could not perform her responsibilities at work with the wrist swelling. (R. p. 45). N.P. Weaver excused her from work. (R. p. 45, 47).

Dr. Fulcher performed surgery on her left wrist, and she returned to see him on August 18, 2017. (R. pp. 53-68). Dr. Fulcher completed a questionnaire dated September 11, 2018. (R. pp. 69-70). In the questionnaire, when viewed in its totality, Dr. Fulcher opined the claimant's bilateral carpal tunnel syndrome was caused by a repetitive trauma from work and that both the left and right wrist injuries were work related. (R. pp. 60-70). There is no contrary medical opinion in the record.

At the hearing, the claimant testified she continued to have pain in both her hands and arms. (R. p. 217). She is still on medication. (R. p. 217). Her hands swell such that she must take time off from work. (R. p. 217). She wants to see a doctor about her hands and wrists, and she has requested the treatment from her employer. (R. p. 217).

STANDARD OF REVIEW

“The Administrative Procedures Act (“APA”) provides the standard for judicial review of decisions by the Commission.” Burnette v. City of Greenville, 401 S.C. 417, 426, 737 S.E.2d 200, 205 (Ct. App. 2012). This court can “reverse or modify the decision only if the claimant’s substantial rights have been prejudiced because the decision is affected by an error of law or is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.” Hutson v. South Carolina State Ports Authority, 399 S.C. 381, 387, 732 S.E.2d 500, 503 (2012). Substantial evidence is neither a “mere scintilla of evidence nor evidence viewed from one side, but such evidence, when the whole record is considered, as would allow reasonable minds to reach the conclusion the Full Commission reached.” Id.

Furthermore, “[i]n determining whether a work-related injury is compensable, the Workers’ Compensation Act is liberally construed toward providing coverage and any reasonable doubt as to the construction of the Act will be resolved in favor of coverage.” Davaut v. University of South Carolina, 418 S.C. 627, 795 S.E.2d 678 (2016).

ARGUMENT

I. THE DECISION OF THE WORKERS’ COMPENSATION COMMISSION IS SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD.

Substantial evidence in the record supports the Workers’ Compensation Commission’s finding that the claimant sustained repetitive trauma injuries to her bilateral arms and hands. “In determining whether a work-related injury is compensable, the Workers’ Compensation Act is liberally construed toward providing coverage and any reasonable doubt as to the construction of the Act will be resolved in favor of coverage.” Davaut v. University of South Carolina, 418 S.C.

627, 795 S.E.2d 678 (2016). Repetitive trauma injury is “an injury which is gradual in onset and caused by the cumulative effects of repetitive traumatic events.” S.C. Code Ann. § 42-1-172(A).

The claimant must establish a causal connection by medical evidence between the injury and “the repetitive activities that occurred while the employee was engaged in the regular duties of his employment.” S.C. Code Ann. § 42-1-172(B). Medical evidence is “expert opinion or testimony stated to a reasonable degree of medical certainty, documents, records, or other material that is offered by a licensed and qualified medical physician.” S.C. Code Ann. § 42-1-172(C).

The claimant testified she worked on an assembly line and handled close to 1800 parts per day. She testified her hands, wrists, and arms began to hurt her after the employer brought in new equipment for her tasks. She reported to the various medical providers that her problems were related to repetitive pulling of electrical equipment. It was undisputed that the claimant’s job duties were repetitive.

In his questionnaire, Dr. Fulcher stated that carpal tunnel syndrome is caused by repetitive trauma from a work-related injury. As this questionnaire is labeled “Questionnaire for . . . Cassandra Stallings,” it is obvious that Dr. Fulcher is answering the question regarding the claimant’s carpal tunnel syndrome. He further opines that her left and right wrist issues are work-related. Although there is a mention of overuse in the question he answered, Dr. Fulcher clarified his meaning in the comments section under the question. Taken as a whole, the questionnaire satisfies the requirements of the statute. Dr. Fulcher’s opinion is uncontradicted in the record.

Furthermore, Dr. Youmas’s records are clear that he was treating her for a workers’ compensation injury. He filled out Forms 14B stating that he was authorized to treat her for a worker’s compensation injury, including under the repetitive trauma statute. The records of the claimant’s own medical provider also support a finding of a repetitive trauma injury.

Because the claimant sustained repetitive trauma injuries, she cannot pinpoint an accident date. “By its nature, a repetitive trauma injury lacks a definite time of injury because the damage ‘is gradual in onset and cause by the cumulative effects of repetitive traumatic events.’” King v. International Knife and Saw-Florence, 395 S.C. 437, 718 S.E. 2d 227 (Ct. App. 2011) (citing S.C. Code Ann. § 42-1-172(A)). The fact that Dr. Youmans listed different dates of injury for the same complaints bears this out.

The claimant has satisfied the elements of the repetitive trauma statute, and substantial evidence supports the ruling of the South Carolina Workers’ Compensation Commission.

CONCLUSION

For the reasons stated, this Court should affirm the decision and order of the South Carolina Workers’ Compensation Commission.

Respectfully submitted,

June 13, 2022

s/ Andrea C. Roche
Andrea C. Roche, Esquire
Mickle & Bass, LLC
Post Office Box 5639
Columbia, South Carolina 29250
(803) 929-0029
aroche@mickleandbass.com
SC Bar No. 7563
Attorney for Respondent

Everette Keith Chandler, Esquire
The Chandler Law Firm
P.O. Box 2391
Aiken, SC 29802
(803) 644-5335
echandler@thechandlerlawfirm.com
Attorney for Respondent

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Appellate Case No. 2021-000965

PROOF OF SERVICE

I certify that I have served the Final Brief of Respondent to be Included in the Record on Appeal on Appellants via electronic mail, on June 13, 2022, addressed to the attorney of record as follows:

Clarke W. McCants, III

Mccants3rd@aol.com

Clarke W. McCants, IV

Clarkemccants4@gmail.com

Nance & McCants

P.O. Box 2881

Aiken, SC 29802

Attorneys for Appellants

Everett Keith Chandler

echandler@thechandlerlawfirm.com

The Chandler Law Firm, P.A.

P.O. Box 2391

Aiken, SC 29802

/s/ Andrea C. Roche

Andrea C. Roche, Esquire

Mickle & Bass, LLC

Post Office Box 5639

Columbia, South Carolina 29250

(803) 929-0029

aroche@mickleandbass.com

SC Bar No. 7563

Attorney for Appellant



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Reply to: Columbia Office

Ann McCrowey Mickle*†
J. Alan Bass*†
Derrick L. Williams*†
Andrea C. Roche *†
Tina N. Herbert

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Cassandra D. Stallings, Employee-Respondent v. Hubbell Power Systems, Employer, and Liberty Mutual Insurance Co., Appellants
Appellate Case No. 2021-000965

Dear Ms. Kitchings:

Enclosed for filing please find the Final Brief of Respondent and a Proof of Service in the above referenced matter. Please return a clocked-in copy to me.

If you have questions, please do not hesitate to contact me.

With kind regards, I am,

Sincerely,

s/Andrea C. Roche
Andrea C. Roche, Esquire
SC Bar No. 7563
Mickle & Bass, LLC
Post Office Box 5639
Columbia, South Carolina 29250
(803) 929-0029
Attorney for Respondent

ACR/arh

Enclosures

cc: Clarke W. McCants, III
Mccants3rd@aol.com
Clarke W. McCants, IV
Clarkemccants4@gmail.com
Nance & McCants
P.O. Box 2881
Aiken, SC 29802
Attorneys for Appellants

Everette Keith Chandler
echandler@thechandlerlawfirm.com
The Chandler Law Firm, P.A.
P.O. Box 2391
Aiken, SC 29802
Attorney for Respondent

930 Oakland Avenue
PO Box 10751
Rock Hill, SC 29731
(803) 980.0083
(803) 328.2525 fax

1519 Richland Street
PO Box 5639
Columbia, SC 29250
(803) 929.0029
(803) 929.1024 fax

1039 44th Avenue North
Suite 102
Myrtle Beach, SC 29577
(843) 839.2501
(843) 839.2507 fax

1517 Sam Rittenburg Blvd.
Charleston, SC 29407
(843) 406-2800
(888) 884-8311 fax

+Partner

*former SC Workers' Compensation Commissioner
www.MickleAndBass.com