

State of South Carolina
Workers' Compensation Commission

APPELLATE PANEL DECISION AND ORDER

COMMISSION PANEL: The Honorable Melody L. James; The Honorable Cynthia C. Dooley;
and The Honorable R. Michael Campbell.

SCWCC File Nos.: 1923627 & 2223041

Mary Davis,

Claimant,

v.

Ruiz Food Products, Inc.,

Employer,

and

Safety National Casualty Corp.,

Defendants.

RECEIVED
JUN 25 2025
SC Court of Appeals

AFFIRMED WITH AMENDMENTS

Hearing held in Richland County, South Carolina,
on February 10, 2025

Per notice timely and properly served upon all Parties of Interest.

Appearances: Preston McDaniel, Esq., of McDaniel Law Firm, appeared on
behalf of Claimant/Appellant.

Walter Barefoot, Esq., of McAngus, Goudelock & Courie, LLC,
appeared on behalf of Defendants/Respondents.

Court Reporter: Nadine Garrett, 1230 Richland St, Columbia, SC 29201, 803-
252-3445, contact@creelreporting.com.

Filed:

April 15, 2025



I. STATEMENT OF THE CASE

Single Commissioner

WCC File No. 1923627

On June 3, 2021, the parties presented for a hearing before the Single Commissioner. Ruiz Food Products, Inc. (Employer) and Safety National Casualty Corp. (Carrier) (hereinafter collectively known as "Defendants") admitted the injury to Mary Davis' (Claimant's) back, but denied she sustained any other injuries in an at-work accident on November 16, 2019. Claimant sought an evaluation and additional medical treatment for the alleged injuries to her left hip and left knee.

The Single Commissioner determined, *inter alia*:

Claimant is entitled to an evaluation for her left knee and left hip with Dr. Rodney K. Alan at McLeod Orthopedics in Florence, South Carolina. Defendants are to provide Claimant with written authorization for an appointment with Dr. Alan within fourteen (14) days of the date of this Order. An actual appointment date will be left to the discretion of Dr. Alan's office. AND IT IS SO ORDERED.

(Single Commissioner's Decision and Order filed on June 7, 2021, p. 4.)

Following Claimant's at-work accident on November 16, 2019, Dr. Rodney K. Alan placed her on light-duty work restrictions. Employer accommodated Claimant's work restrictions. Claimant remained on light-duty until Employer terminated her employment on February 20, 2023.

WCC File No. 2223041

On September 27, 2023, the parties once again presented for a hearing before the same Single Commissioner. Claimant asserted that she sustained injuries or aggravated preexisting conditions after a co-worker assaulted her on November 4, 2022. Claimant further asserted Employer terminated her employment after she requested additional medical care for her subsequent injuries.

Claimant sought temporary total disability (TTD) benefits from February 20, 2023, to the present and continuing. Claimant also sought medical treatment for the injuries that she allegedly sustained on November 4, 2022.

Defendants denied Claimant's claim and asserted the substantial evidence does not support a finding that Claimant was assaulted or injured by a co-worker on November 4, 2022. Defendants further asserted that Claimant's employment continued following her at-work accident on November 16, 2019, until Employer terminated her for cause on February 20, 2023.

Defendants sought a finding that Claimant is ineligible for TTD benefits. Defendants also sought a finding that Claimant is not entitled to medical treatment for her alleged November 4, 2022 injuries.

The Single Commissioner determined, *inter alia*:

[C]laimant is entitled to continued authorized causally related medical treatment for the injuries she sustained to her left knee, left hip and low back in an at-work accident on November 16, 2019. [C]laimant is not entitled to medical treatment for her alleged November 4, 2022 injuries. [C]laimant is not entitled to TTD benefits from her date of termination on February 20, 2023, to the present and continuing.

(Single Commissioner's Decision and Order filed on July 29, 2024, p. 10).

Appellate Panel

This matter is now before the South Carolina Workers' Compensation Commission's Appellate Panel pursuant to issues raised on appeal by Claimant. Within the statutory period, Claimant filed a Form 30, Request for Commission Review. Accordingly, the parties presented before the Appellate Panel on February 10, 2025.

II. SINGLE COMMISSIONER FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

1. Per prior Order of this Commission, Claimant sustained compensable injuries to her left knee, left hip and low back. (Single Commissioner's Decision and Order filed on June 7, 2021.)

2. Claimant has been receiving authorized causally related medical treatment at the direction of Defendants.
3. Dr. [Rodney] Alan issued Claimant's light-duty work restrictions, which Employer was able to accommodate.
4. Employer initiated nine (9) disciplinary actions against Claimant from November 2, 2019, through November 7, 2022. These disciplinary actions ranged from verbal warnings to suspension for violating Employer's policy. (Defendants' APA (A.) No. 24, pp. 185-193.)
5. Claimant was ultimately terminated on February 20, 2023, after being observed throwing food away, which was against company policy. (Defendants' APA (A.) No. 24, p. 194.)
6. I find that but for Claimant's work-policy violation, her light-duty work restrictions would have continued to be accommodated. Claimant's testimony that she and other employees always threw food away without discipline is unpersuasive.
7. In accordance with the South Carolina Supreme Court's holding in Pollack v. Southern Wine & Spirits of America, the greater weight of the evidence in the instant case supports a finding that Claimant was terminated for cause and, therefore, Claimant's inability to earn wages was not due to or because of a work-related injury. Pollack v. Southern Wine & Spirits of America, 747 S.E.2d 430, 434 (2013). I find Claimant is not entitled to TTD benefits.
8. I find Defendants are continuing to provide medical treatment in compliance with the prior Order of the Commission and the Act. (Single Commissioner's Decision and Order filed on June 7, 2021.)
9. Claimant alleges a second injury by accident on November 4, 2022, after she was allegedly assaulted by a co-worker.

10. I find Claimant's testimony regarding her alleged assault is unreliable as to specific details surrounding the incident. Specifically, Claimant was a poor historian during her testimony, especially on cross examination. Claimant testified there was a "crowd" in the hallway where the incident occurred, but asserted she could not recall the name of one person who may have witnessed the alleged incident (Hr. Tr. p. 65.)
11. Claimant had authorized medical treatment for her November 16, 2019 injuries with Dr. Rakesh Chokshi on November 14, 2022. This appointment occurred a mere ten (10) days following the alleged work-related incident on November 4, 2022. Although Claimant testified she told Dr Chokshi about the alleged November 4, 2022 incident, her testimony is not supported by the medical evidence.
12. Again, Claimant had authorized medical treatment for her November 16, 2019 injuries with Dr. Alan on February 27, 2023. This appointment occurred over three (3) months following the alleged work-related incident on November 4, 2022. Although Claimant testified she told Dr Alan about the alleged November 4, 2022 incident, her testimony is not supported by the medical evidence.
13. I find the first mention of any pain in Claimant's wrist which could be attributable to the alleged November 14, 2022 [sic] incident is the medical record from March 24, 2023, over four (4) months after the alleged incident. However, even this record indicates Claimant "denies any injury". (Defendants' APA (B.) No. 14, p. 100.)
14. I find Claimant never filed a police report regarding the alleged assault. (Hr. Tr. p.69.)
15. I find Claimant's testimony to be unreliable and exaggerating when she testified that all of the pain was "always a ten" out of ten. (10/10), including pain to her low back, neck, left knee and

left hip. Further, Claimant admitted she had not once reported to the emergency room due to pain. (Hr. Tr. pp. 67-68.)

16. I give greater weight to the testimony of the Employer's Representative, Mr. Jonathan Holder, who testified he reviewed all of the security camera footage from Claimant's alleged date of injury on November 4, 2022, and did not see anything related to Claimant's assault allegation. (Hr. Tr. pp. 75-76.)
17. Employer's Representative, Ms. Opal Jones, testified during her deposition that she also reviewed security camera footage from Claimant's alleged date of injury on November 4, 2022, and did not see anything related to Claimant's assault allegation. (Opal Jones Depo. p. 21.)
18. I also give greater weight, over that of Claimant's, to the testimony of Mr. Holder in regard to multiple policy violations that could have led to Claimant's termination, but did not. (Hr. Tr. pp. 70-74.) I find Claimant's assertion that she was fired because of her workers' compensation claim, and thus owed temporary benefits, is not supported by the greater weight of the evidence.
19. Claimant is entitled to continued authorized causally related medical treatment for the injuries she sustained to her left knee, left hip and low back in an at-work accident on November 16, 2019.
20. All requests for benefits related to her November 4, 2022 alleged assault are denied.

CONCLUSIONS OF LAW

1. Pursuant to S.C. Code Ann. § 42-1-130, Claimant was a covered employee under the Act on November 16, 2019 and November 4, 2022.
2. Pursuant to S.C. Code Ann. § 42-1-140, Employer is a covered employer under the Act.
3. Pursuant to S.C. Code Ann. § 42-1-160, Claimant sustained injuries to her low back, left knee and left hip in an at-work accident on November 16, 2019.

4. Pursuant to S.C. Code Ann. § 42-15-60, Claimant is entitled to continued authorized causally related medical treatment for the injuries she sustained to her left knee, left hip and low back in an at-work accident on November 16, 2019.
5. Pursuant to S.C. Code Ann. § 42-1-160, Claimant did not sustain injuries in an at-work incident on November 4, 2022.
6. Pursuant to S.C. Code Ann. § 42-9-35, Claimant did not aggravate preexisting conditions in an at-work incident on November 4, 2022.
7. Pursuant to S.C. Code Ann. § 42-15-60, Claimant is not entitled to additional causally related medical treatment for her November 4, 2022 alleged injuries.
8. Pursuant to S.C. Code Ann. § 42-9-190, Employer accommodated Claimant's light-duty work restrictions following her at-work accident on November 16, 2019, until her termination on February 20, 2023.
9. Pursuant to Pollack v. Southern Wine & Spirits of America, Claimant was terminated by Employer for cause. Id. at 434.
10. Pursuant to Shelton v. Oscar Mayer Foods Corp., the findings of fact made during Claimant's Department of Employment and Workforce hearing have no preclusive effect on the Commission's adjudication of this case. Id.
11. Pursuant to S.C. Code Ann. § 42-9-10, Claimant is not entitled to TTD benefits from her date of termination on February 20, 2023, to the present and continuing.

III. ISSUES ON APPEAL

WCC File No. 1923627

Claimant appeals this matter arguing the Single Commissioner erred as a matter of fact and law that Claimant's neck injury was not an admitted injury, and that Claimant was not entitled to TTD benefits because she was terminated for cause.

Claimant appeals this matter arguing the Single Commissioner erred as a matter of fact and law that Claimant did not sustain any compensable injuries in a work-related incident.

Claimant requests a review of all Findings of Fact, Conclusions of Law, and the Award/Order in the Single Commissioner's Decision and Order filed on July 29, 2024.

IV. DECISION OF THE APPELLATE PANEL

In an application for review pursuant to S.C. Code Ann. § 42-17-50, the Appellate Panel shall review the Award, and, if good grounds be shown therefore, reconsider the evidence, receive further evidence, rehear the parties or their representatives and, if proper, amend the award by making its own Findings of Fact and its own Conclusions of Law consistent with or inconsistent with those of the Hearing Commissioner.

After careful review of the Requests for Review in the instant case, including review of the entire record and upon consideration of the memoranda and arguments of the parties, the Appellate Panel **Affirms with Amendments** the Decision and Order of the Single Commissioner filed on July 29, 2024.

Below are set out the Findings of Fact and Conclusions of Law of the Appellate Panel as to this claim.

FINDINGS OF FACT

1. We find Claimant is entitled to continued authorized causally related medical treatment for the compensable injuries to her low back, left knee and left hip sustained in an at-work accident on November 16, 2019.
2. We find Claimant sustained a compensable injury to her neck in an at-work accident on November 16, 2019.

3. Dr. Stuart Sandler opined to a reasonable degree of medical certainty that Claimant's neck injury is causally related to an at-work accident on November 16, 2019. (Claimant's APA No. 4, p. 31). We, therefore, find Claimant is to be returned to the authorized treating physician for an evaluation and treatment for any related conditions of her neck.
4. Dr. Rodney Alan issued Claimant's light-duty work restrictions, which Employer was able to accommodate.
5. Employer initiated nine (9) disciplinary actions against Claimant from November 2, 2019, through November 7, 2022. These disciplinary actions ranged from verbal warnings to suspension for violating Employer's policy. (Defendants' APA (A.) No. 24, pp. 185-193.)
6. Claimant was ultimately terminated on February 20, 2023, after being observed throwing food away, which was against company policy. (Defendants' APA (A.) No. 24, p. 194.)
7. We find that but for Claimant's work-policy violation, her light-duty work restrictions would have continued to be accommodated. Claimant's testimony that she and other employees always threw food away without discipline is unpersuasive.
8. In accordance with the South Carolina Supreme Court's holding in Pollack v. Southern Wine & Spirits of America, the greater weight of the evidence in the instant case supports a finding that Claimant was terminated for cause and, therefore, Claimant's inability to earn wages was not due to or because of a work-related injury. Pollack v. Southern Wine & Spirits of America, 747 S.E.2d 430, 434 (2013). We find Claimant is not entitled to TTD benefits.
9. Claimant alleges a second injury by accident on November 4, 2022, after she was allegedly assaulted by a co-worker.
10. We find Claimant's testimony regarding her alleged assault is unreliable as to specific details surrounding the incident. Specifically, Claimant was a poor historian during her testimony,

especially on cross examination. Claimant testified there was a “crowd” in the hallway where the incident occurred, but asserted she could not recall the name of one person who may have witnessed the alleged incident (Hr. Tr. p. 65.)

11. Claimant had authorized medical treatment for her November 16, 2019 injuries with Dr. Rakesh Chokshi on November 14, 2022. This appointment occurred a mere ten (10) days following the alleged work-related incident on November 4, 2022. Although Claimant testified she told Dr Chokshi about the alleged November 4, 2022 incident, her testimony is not supported by the medical evidence.
12. Again, Claimant had authorized medical treatment for her November 16, 2019 injuries with Dr. Alan on February 27, 2023. This appointment occurred over three (3) months following the alleged work-related incident on November 4, 2022. Although Claimant testified she told Dr Alan about the alleged November 4, 2022 incident, her testimony is not supported by the medical evidence.
13. We find the first mention of any pain in Claimant’s wrist which could be attributable to the alleged November 4, 2022 incident is the medical record from March 24, 2023, over four (4) months after the alleged incident. However, even this record indicates Claimant “denies any injury”. (Defendants’ APA (B.) No. 14, p. 100.)
14. We find Claimant never filed a police report regarding the alleged assault. (Hr. Tr. p.69.)
15. We find Claimant’s testimony to be unreliable and exaggerating when she testified that all of the pain was “always a ten” out of ten. (10/10), including pain to her low back, neck, left knee and left hip. Further, Claimant admitted she had not once reported to the emergency room due to pain. (Hr. Tr. pp. 67-68.)

16. We give greater weight to the testimony of the Employer's Representative, Mr. Jonathan Holder, who testified he reviewed all of the security camera footage from Claimant's alleged date of injury on November 4, 2022, and did not see anything related to Claimant's assault allegation. (Hr. Tr. pp. 75-76.)
17. Employer's Representative, Ms. Opal Jones, testified during her deposition that she also reviewed security camera footage from Claimant's alleged date of injury on November 4, 2022, and did not see anything related to Claimant's assault allegation. (Opal Jones Depo. p. 21.)
18. We also give greater weight, over that of Claimant's, to the testimony of Mr. Holder in regard to multiple policy violations that could have led to Claimant's termination, but did not. (Hr. Tr. pp. 70-74.) We find Claimant's assertion that she was fired because of her workers' compensation claim, and thus owed temporary benefits, is not supported by the greater weight of the evidence.
19. All requests for benefits related to her November 4, 2022 alleged assault are denied.

CONCLUSIONS OF LAW

1. Pursuant to S.C. Code Ann. § 42-1-130, Claimant was a covered employee under the Act on November 16, 2019 and November 4, 2022.
2. Pursuant to S.C. Code Ann. § 42-1-140, Employer is a covered employer under the Act.
3. Pursuant to S.C. Code Ann. § 42-15-60, Claimant is entitled to continued authorized causally related medical treatment for the compensable injuries she sustained to her low back, left knee and left hip in an at-work accident on November 16, 2019.
4. Pursuant to S.C. Code Ann. § 42-1-160, Claimant sustained a compensable injury to her neck in an at-work accident on November 16, 2019.

5. Pursuant to S.C. Code Ann. § 42-15-60, Claimant is entitled to an evaluation and treatment by the authorized treating physician for any conditions related to the neck injury she sustained in an at-work accident on November 16, 2019.
6. Pursuant to S.C. Code Ann. § 42-1-160, Claimant did not sustain injuries in an at-work incident on November 4, 2022.
7. Pursuant to S.C. Code Ann. § 42-9-35, Claimant did not aggravate preexisting conditions in an at-work incident on November 4, 2022.
8. Pursuant to S.C. Code Ann. § 42-15-60, Claimant is not entitled to additional causally related medical treatment for her November 4, 2022 alleged injuries.
9. Pursuant to S.C. Code Ann. § 42-9-190, Employer accommodated Claimant's light-duty work restrictions following her at-work accident on November 16, 2019, until her termination on February 20, 2023.
10. Pursuant to Pollack v. Southern Wine & Spirits of America, Claimant was terminated by Employer for cause. Id. at 434.
11. Pursuant to Shelton v. Oscar Mayer Foods Corp., the findings of fact made during Claimant's Department of Employment and Workforce hearing have no preclusive effect on the Commission's adjudication of this case. Id.
12. Pursuant to S.C. Code Ann. § 42-9-10, Claimant is not entitled to TTD benefits from her date of termination on February 20, 2023, to the present and continuing.

ORDER

IT IS HEREBY ORDERED that the Decision and Order of the Single Commissioner filed on July 29, 2024, is **Affirmed and Amended** as set forth herein.

IT IS FURTHER ORDERED that Claimant is entitled to continued authorized causally related medical treatment for the compensable injuries she sustained to her low back, left knee, and left hip in an at-work accident on November 16, 2019.

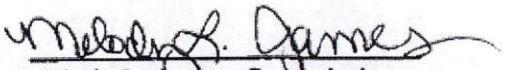
IT IS FURTHER ORDERED that Claimant is entitled to an evaluation and treatment from the authorized treating physician for any conditions related to the neck injury she sustained in an at-work accident on November 16, 2019.

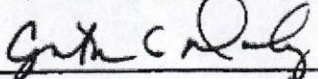
IT IS FURTHER ORDERED that Claimant is not entitled to medical treatment for her alleged November 4, 2022 injuries.

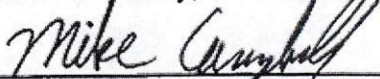
IT IS FURTHER ORDERED that Claimant is not entitled to TTD benefits from her date of termination on February 20, 2023, to the present and continuing.

AND SO IT IS ORDERED.

_____ (date)
Columbia, SC


Melody L. James, Commissioner


Cynthia C. Dooley, Commissioner


R. Michael Campbell, Commissioner

Order Served via email:

<p>Walter H. Barefoot McAngus Goudelock & Courie walt.barefoot@mgclaw.com</p>	<p>Preston F. McDaniel McDaniel Law Firm preston@pfmcdlaw.com</p>
-----------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Eugenia Hollmon on April 15, 2025