

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

W.C.C. FILE NO. 1310882

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SC Court of Appeals

TYRONE LAWRENCE,)
)
Employee,)
)
Claimant,)
)
vs.)
)
ADVANCED GLASSFIBER YARNS, INC.,)
)
Employer,)
)
Ans)
)
GREAT AMERICAN ALLIANCE INSURANCE CO.,)
)
Carrier,)
)
Defendants.)

DECISION AND ORDER

W.C.C. FILE NO. 1310882

Appellate Panel Review held in Columbia, South Carolina on

August 15, 2016

Appellate Panel Decision and Order filed on October 12th, 2016

Appearances: Claimant represented by William L. Smith II, Esquire
Defendants represented by E. Ros Huff, Jr., Esquire

STATEMENT OF THE CASE

This case came before the Single Commissioner, the Honorable Avery Wilkerson, pursuant to a Form 50 filed by Claimant, Tyrone Lawrence. Claimant sought benefits under the South Carolina Workers' Compensation Act based upon an accidental injury that occurred on August 14, 2013. Specifically, Claimant suffered an injury to his shoulders, his head, his neck, and his lower back when a fluorescent light and part of the ceiling fell on him. Defendants argued the light did not fall on Claimant in the manner he described and consequently denied the claim. The issues presented before the Single Commissioner were the compensability of Claimant's injury; Defendants' responsibility for the payment of temporary total disability for the time Claimant was out of work; reimbursement of Claimant's reasonable and causally related medical expenses; which doctor should be designated as the authorized treating physician; and the extent of Claimant's disability if he is found to be at maximum medical improvement.

The hearing was held before the Single Commissioner on November 23, 2015, and the Single Commissioner issued his Decision and Order on February 11, 2016, in which he made the following Findings of Fact:

1. The parties and proceedings are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. Advanced Glassfiber Yarns (AGY) is the employer and Great American Alliance Insurance is the insurance carrier.
3. Claimant sustained a compensable injury by accident on August 14, 2013.
4. Claimant was a very credible witness. Claimant is a thirty-seven (37) year employee and testified in a clear, honest, and very credible manner.
5. All of the witnesses testified very similarly to the Claimant and showed that the light fixture fell. The only person present in the area when the light fixture fell was the Claimant. However, Martha Caine verified that the light fixture had fallen and there was debris on the Claimant and he appeared stunned.

6. The light fixture was an older fixture and it had been designated for repair on several occasions. Such a hanging fixture would swing when it fell.
7. Dr. Poletti, Dr. Carter, and Dr. Lehman all provided opinions that Claimant's condition was causally related to the accident.
8. Claimant is entitled to temporary total compensation for the five (5) weeks of benefits in the fall of 2013 and for the period of June 4, 2015 through July 27, 2015. Claimant has not reached maximum medical improvement. Dr. Poletti is named as the authorized treating physician. Defendants denied the claim and lost the right to choose the medical provider.

The Single Commissioner further made the following Conclusions of Law:

1. Pursuant to §42-1-160, Claimant sustained a compensable injury by accident arising out of and in the course of his employment.
2. Pursuant to §42-15-20, notice of the accident was given to the employer.
3. Pursuant to §42-9-10, Claimant is entitled to temporary total compensation as outlined above
4. Pursuant to §42-15-60, Claimant is entitled to payment of all causally related medical expenses to date and continuing with Dr. Poletti to serve as treating physician.

The Single Commissioner further issued the following Order:

1. Payment of temporary total compensation for five (5) weeks of benefits during the fall of 2013 and for the period of June 4, 2015 through July 27, 2015 at the rate of \$646.24 per week.
2. Payment of all causally related medical expenses from August 14, 2013 to present and continuing.
3. All other issues are held in abeyance.

Within the statutory period, the Defendants timely filed an application for review and a Form 30 setting forth their grounds for review. Copies of the application and the Form 30 were furnished to all interested parties. The Appellant/ Defendants requested review of the following questions:

1. Did the Single Commissioner err in finding as fact and concluding as a matter of law that the Claimant sustained a compensable injury by accident for the bodily injury?

2. Did the Single Commissioner err in finding as fact and concluding as a matter of law that Dr. Poletti is the authorized treating physician.

Briefs were submitted prior to oral arguments and they were presented before the Appellate Panel on August 15, 2016. All proffered testimony, documentary testimony, and oral arguments have been delivered to the Appellate Panel, and the Panel has since been under study and consideration. In appellate review, the Appellate Panel shall, pursuant to S.C. Code Ann. §42-17-50, review the award, weigh the evidence as presented at the initial hearing, and, if grounds exists for, make its own findings of fact and reach its own conclusions of law consistent or inconsistent with those of the Single Commissioner. Counsel for Claimant and for Defendants appeared at the scheduled hearing to present oral arguments on behalf of the parties.

A review of the record in its entirety shows the evidence supports, with amendments, the Single Commissioner's Decision and Order.

FINDINGS OF FACT

1. The parties and proceedings are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. Advanced Glassfiber Yarns (AGY) is the employer and Great American Alliance Insurance is the insurance carrier.
3. Claimant sustained a compensable injury by accident.
4. Although there were discrepancies between Claimant's deposition testimony and Claimant's hearing testimony, we believe Claimant more than we doubt him.
5. All of the witnesses testified very similarly to the Claimant and showed that the light fixture fell. The only person present in the area when the light fixture fell was the Claimant. However, Martha Caine verified that the light fixture had fallen and there was debris on the Claimant and he appeared stunned.
6. While the fact is not dispositive, Claimant was a thirty-seven (37) year employee of Advanced Glassfiber Yarn, Inc., the Defendant/Appellant.
7. The light fixture was an older fixture and it had been designated for repair on several occasions. Such a hanging fixture would swing when it fell.

8. Dr. Poletti, Dr. Carter, and Dr. Lehman all provided opinions that Claimant's condition was causally related to the accident.
9. Claimant is entitled to temporary total compensation for the five (5) weeks of benefits in the fall of 2013 and for the period of June 4, 2015 through July 27, 2015. Claimant has not reached maximum medical improvement. Dr. Poletti is named as the authorized treating physician.

CONCLUSIONS OF LAW

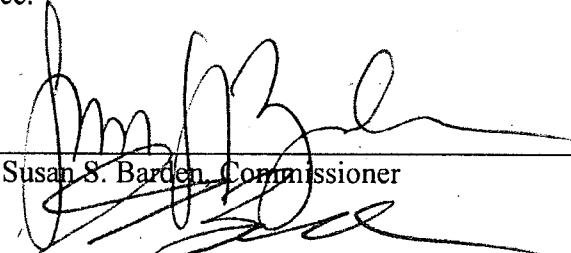
1. Pursuant to §42-1-160, Claimant sustained a compensable injury by accident arising out of and in the course of his employment.
2. Pursuant to §42-15-20, notice of the accident was given to the employer.
3. Pursuant to §42-9-10, Claimant is entitled to temporary total compensation as outlined above
4. Pursuant to §42-15-60, Claimant is entitled to payment of all causally related medical expenses to date and continuing with Dr. Poletti to serve as treating physician.

ORDER

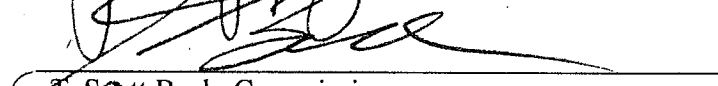
IT IS THEREFORE ORDERED: The decision of the Single Commissioner filed in the above entitled matter on February 11, 2016, is hereby affirmed with amendments by the Appellate Panel of the South Carolina Workers' Compensation Commission. We Order Defendants make the following payments:

1. Payment of temporary total compensation for five (5) weeks of benefits during the fall of 2013 and for the period of June 4, 2015 through July 27, 2015 at the rate of \$646.24 per week.
2. Payment of all causally related medical expenses from August 14, 2013 to present and continuing.
3. All other issues are held in abeyance.

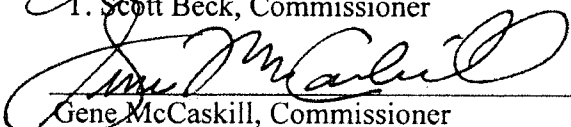
AND IT IS SO ORDERED!



Susan S. Barden, Commissioner



T. Scott Beck, Commissioner



Gene McCaskill, Commissioner

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).