

SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Courtney Forrest)
)
 Claimant,)
)
 vs.)
)
 ADS Waste Holdings, Inc.,)
)
 Employer,)
)
 and)
)
 Arch Insurance Company,)
)
 Carrier,)
)
 Defendants.)
 _____)

SWCC File No.: 1604067

DECISION AND ORDER

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SC Court of Appeals

Hearing: August 10, 2016 in Columbia, South Carolina

Appearances: Christopher Archer, Esquire, of Goodwyn Law Firm, Columbia, South Carolina for Claimant
Kay Crowe, Esquire, of Barnes Alford Stork & Johnson, Columbia, South Carolina for Defendants

Purpose of Hearing: To determine those issues set forth on the Forms 50 and 51 and any other matters which may have timely come before the undersigned Commissioner.

Decision and Order: By T. Scott Beck, Commissioner

Filed: October 25, 2016

STIPULATIONS

1. The purpose of the Hearing was to determine the issues set forth in the Hearing Notice and Forms 50 and 51, and any other matters which may have timely come before the undersigned Commissioner.
2. Notice of the hearing for this matter was timely and properly served upon all parties of interest.
3. The Claimant's compensation rate is \$784.03 based upon an average weekly wage of \$1,103.81.
4. Venue for this matter in Richland County is proper.

APA SUBMISSIONS

Claimant's APA Submissions

1. Doctors Express, Pages 1-14
2. William Jennings Bryan Dorn VA Medical Center, Pages 15-24
3. Moncrief Hospital, Pages 25-43
4. Employment Records from Advanced Disposal Services, Inc., Pages 1-105
5. Deposition Transcript of Claimant

Defendants' APA Submissions

1. Investigator Report, Pages 106-122
2. DVD Containing Video of Investigator, Video of Work Place, Photos

STATEMENT OF THE CASE

This matter is before the undersigned Commissioner to determine the issues set forth in the Parties' Forms 50 and 51, and the Claimant's entitlement to compensation and benefits under the South Carolina Workers' Compensation Act (hereinafter the "Act").

The Claimant in this case contends that he sustained injuries to his left ankle and left leg on April 12, 2016 as a result of an accident arising out of and in the course of his employment with the Employer. He further contends that he is entitled to payment of temporary total compensation and payment of medical expenses incurred as a result of his injury. He also asserts that he has not reached the point of maximum medical improvement with regard to his injury and is entitled to receive additional medical treatment.

The Defendants deny that the Claimant sustained any injury arising out of and in the course of his employment. The Defendants further deny that the Claimant is entitled to any compensation and benefits under the Act.

EVIDENCE IN THE CASE

The Claimant in this matter is 57 years-old and resides in Columbia, South Carolina. He is married and has three children. He has worked as a heavy equipment mechanic most of his adult life.

The Claimant alleges that he injured his left ankle and left leg when he fell while walking on uneven gravel at the Employer's facility on April 12, 2016. He testified that he immediately felt pain in his left leg.

The Claimant submitted medical records at the hearing held before me for this case. No medical records were submitted by the Defendants. The medical records submitted reflect that the Claimant sought treatment at Doctor's Express on April 12, 2016 where he complained of left foot pain resulting from a fall at work. Dr. Michael Huncharek of Doctor's Express diagnosed the Claimant with a sprain of unspecified ligament of the left ankle and placed the Claimant out of work through April 18, 2016.

The Claimant also sought treatment at William Jennings Bryan Dorn VA Medical Center on April 12, 2016 where he complained of left foot pain resulting from a fall at work. The radiology report from this visit revealed soft tissue swelling superficial to the lateral malleolus. The Claimant is diagnosed with a left ankle sprain, and placed out of work through April 15, 2016 with a recommendation that further diagnostic imaging be performed.

The Claimant returned to Doctor's Express on April 18, 2016 for a scheduled follow-up appointment. On this date, Dr. Huncharek recommended a physical therapy evaluation and treatment and placed the Claimant out of work pending the physical therapy evaluation.

The Claimant visited Moncrief Hospital on April 20, 2016. This appointment was scheduled by Claimant prior to April 12, 2016 to address issues unrelated to his left leg. While there, the Claimant complained of a traumatic injury to his left leg. Claimant is diagnosed with ligament sprain in his left ankle and referred to physical therapy.

FINDINGS OF FACT

1. The Claimant alleges a work-related injury to his left ankle and left leg on April 12, 2016 within the course and scope of his employment.
2. Based primarily upon the medical evidence in the file and in spite of the video and surveillance, I find the Claimant satisfied his burden of proving a compensable injury to his left ankle.
3. Claimant was written out of work on April 12, 2016 (Claimant's APA Submissions Page 7) and April 18, 2016 (Claimant's APA Submissions Page 9) and I find no indication that these restrictions have been lifted.

4. Claimant is entitled to temporary total disability benefits from the date of injury to the present and continuing. While the video and surveillance are disturbing to me on this issue, I am constrained by the medical evidence.

5. The Claimant's compensation rate is \$784.03 based upon an average weekly wage of \$1,103.81.

CONCLUSIONS OF LAW

1. The South Carolina Workers' Compensation Commission has jurisdiction over this matter.

2. Pursuant to S.C. Code Ann. § 42-1-160 (1976), and other applicable law and regulation, the Claimant did sustain an injury on April 12, 2016 as a result of an accident arising out of and in the course of his employment relationship with the Employer, and is thereby entitled to compensation and benefits under the Act.

AWARD

IT IS THEREFORE ORDERED:

1. Claimant is entitled to causally related medical care.
2. Claimant is entitled to temporary total disability benefits from the date of injury to the present and continuing.

SO ORDERED.



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

October 25, 2016

By: Shawn DeBruhl, Administrative Assistant to Commissioner Beck