IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-25

No. COA21-198

Filed 4 January 2022

North Carolina Industrial Commission, I.C. No. 18-034508

GENEVIEVE CARTER VANCE, Plaintiff,

v.

LAURELS HEALTHCARE HOLDINGS, Employer, PMA COMPANIES, Carrier, Defendants.

Appeal by plaintiff from opinion and award entered 19 January 2021 by the North Carolina Industrial Commission. Heard in the Court of Appeals 3 November 2021.

Ganly & Ramer, P.L.L.C., by Thomas F. Ramer, for Plaintiff-Appellant.

Sizemore McGee, P.L.L.C., by Steven W. Sizemore, for Defendants-Appellees.

CARPENTER, Judge.

¶ 1 Genevieve Carter Vance ("Plaintiff") appeals from an opinion and award (the "Opinion and Award") entered 19 January 2021 by the full North Carolina Industrial Commission (the "Commission"). Because we hold the Commission's conclusion that Plaintiff failed to show she sustained an injury by accident is unsupported by competent evidence, we reverse the Opinion and Award and remand the matter to

the Commission.

I. Factual and Procedural Background

¶ 2 This case arises out of Plaintiff's workers' compensation claim, which was denied by Defendant PMA Companies on 11 September 2018. On 26 September 2018, Plaintiff requested the claim be assigned for hearing. On 25 March 2019, an evidentiary hearing was held before Deputy Commissioner Jesse Tillman, III ("Deputy Commissioner Tillman"). The issues before Deputy Commissioner Tillman were: (1) whether Plaintiff sustained a compensable injury by accident to her left knee on 18 July 2018; and (2) what benefits Plaintiff was entitled to receive.

¶ 3 The evidence of record tends to show the following: Plaintiff, a licensed physical therapy assistant ("PTA") since 2008, began employment with Laurels of Summit Ridge, a facility of Laurels Healthcare Holdings ("Employer"), in 2012. As part of her job, Plaintiff is often required to use her physical strength to facilitate movements for patients who have mobility problems. The patients may have stiff, erratic, or unusual movements. Plaintiff's "job duties include progressing the plan of care . . . set forth by the supervisor and therapist." Plaintiff, as a PTA, uses therapeutic interventions and modalities pursuant to state and federal standards.

¶ 4 On 18 July 2018, Plaintiff was injured while working with patient "J.W." Prior to the incident, Plaintiff had never lifted J.W. from a seated to a standing position by herself, although she had previously worked with J.W. on several occasions with

another assistant. When asked on direct examination at the 25 March 2019 hearing if she understood that "J.W. was considered to be a two-person lift," Plaintiff responded, "[n]ot necessarily, not always." On cross-examination, Plaintiff clarified that J.W. could "get up" with certain modifications. In a recorded statement taken by PMA Companies on 14 August 2018, Plaintiff added, "[w]hen I say 'modifications,' like if the bed is raised to a certain height[,] he's able to get up without a lot of physical assist." To the best of Plaintiff's knowledge, she had not worked with any patients larger than J.W. Plaintiff had reviewed J.W.'s chart—including progress notes, needed assessments, and prior treatments—the morning of the date of injury "[t]o get a clear indication as to what he needs to work on."

¶ 5 J.W. weighs approximately 300 pounds and stands about six feet, three inches tall. Due to a degenerative condition, he does not have hip flexors. As a result, J.W. has a decreased range in motion for bending or leaning forward. J.W.'s legs are continually extended out, so he needs assistance with pushing his legs back in order to lean forward or stand up. He can walk with the assistance of a walker once standing.

¶ 6 On 18 July 2018, J.W. was walking with another therapist to Employer's gym when he saw Plaintiff. J.W. expressed to Plaintiff he "would like to practice transfers" and "getting up and down"; these tasks were within J.W.'s plan of care. After Plaintiff could not find another assistant to help with the transfer, Plaintiff took J.W. "inside

the gym and . . . positioned him within the parallel bars" as J.W. sat in a wheelchair in a reclined position of about forty-five degrees. Plaintiff removed the foot pedals from J.W.'s wheelchair so he could stand. Plaintiff then put her gait belt around J.W.'s waist and ensured his feet were in proper position. She next instructed J.W. to lean forward and advised him he would help by shifting his weight to a standing position on the count of three. As J.W. leaned forward, Plaintiff placed her body close to J.W. while holding the gait belt, put her left foot first and her right foot behind her, and shifted her weight to assist J.W. in standing up. According to Plaintiff, J.W. "requir[ed] more effort than [she] expected" when he went to stand up. Plaintiff's expectations were based on her prior two-person lifts, and she "exerted all [her] force to get [J.W.] from a seated to a standing position." As a result, Plaintiff shifted her weight onto her left knee and felt discomfort and pain in the knee. She shifted her weight again onto her left knee in assisting him back down in a seated position. Plaintiff returned J.W. to his room and continued to work on the administrative duties of her job. Although her knee was "really hurting," she did not seek medical care since "it's not uncommon to have aches and pains" in her line of work.

¶ 7 Plaintiff continued to have pain in her knee days later. She reported the accident to her supervisors, Charles Fox ("Mr. Fox") and Charles Jenson Simonetti ("Mr. Simonetti"), on 26 July 2018 and completed an incident report on 7 August 2018. As directed by Employer, Plaintiff was seen at an urgent care facility for her

injury and was placed on "sit down duty only." After her claim was denied, Plaintiff was released of light duty and placed on Family and Medical Leave Act ("FMLA") leave and short-term disability. Plaintiff requested she be referred to Dr. Charles James DePaolo, III ("Dr. DePaolo"), a board-certified orthopedic surgeon.

¶ 8 In his 5 June 2019 deposition, Dr. DePaolo testified that a meniscal tear is typically caused by a traumatic event where a knee is "plant[ed] and twist[ed]." Dr. DePaolo opined that Plaintiff's shift of her weight onto her knee contributed to the injury for which he treated Plaintiff. Dr. DePaolo recommended therapy to increase her motion and later performed an outpatient arthroscopy surgical procedure on Plaintiff's left knee. Based on his operative findings as well as Plaintiff's prior MRI scans from 22 August 2018, Dr. DePaolo concluded Plaintiff had a "medial meniscus tear and a small lateral meniscus tear." Dr. DePaolo testified Plaintiff's impairment rating is likely "in the range of ten to fifteen percent" due to her injury and subsequent surgery. Nevertheless, Plaintiff was ultimately released to full duty work.

¶ 9 Mr. Simonetti, a licensed PTA and Director of Rehabilitative Services for Employer, testified he supervised twelve PTAs including Plaintiff as it pertained to the administrative and financial aspects of their work, but did not supervise their clinical work. The performance of Plaintiff's physical therapy activities was supervised by two physical therapists, one of whom was Mr. Fox. Mr. Simonetti testified Employer considered J.W. to be a "max assist," meaning he could contribute

twenty-five percent or less to a lift. Mr. Simonetti explained that a patient could be classified as a "max assist" one day, and a "moderate assist" or a "minimal assist" another day. Furthermore, Mr. Simonetti acknowledged Employer had determined J.W. to be a two-person lift on and leading up to 18 July 2018—in other words, "two people would be needed to stand him because of his size, his weight, et cetera." Despite Employer's classifications for J.W., Mr. Simonetti had worked with J.W. on a sit-to-stand transfer without the assistance of another therapist on at least one occasion.

¶ 10 Mr. Simonetti described Employer's policy of requiring employees engaged in physical therapy activities to "have a [g]ait belt on the patient" at all times. A gait belt is placed around a patient's waist, held by the therapist, and is used to control the direction of movement of a patient's hips and pelvis. With the use of a gait belt, a therapist can safely maneuver how and where a patient's body moves. Employer also uses mechanical lifts in certain circumstances, including when it is put in a patient's plan of care or when a therapist recommends it. When asked at the 25 March 2019 hearing before Deputy Commissioner Tillman what would change a therapist's abilities to safely help J.W. out of a chair, Mr. Simonetti responded, "[i]f he's not having a good day," "[i]f the [gait] belt is cinched in tight and moved," [i]f the [patient] loses . . . balance," or "[i]f the therapist lost their position." In other words,

according to Mr. Simonetti, it would "take something unexpected" to cause a therapist to be injured.

¶ 11 On 13 December 2019, Deputy Commissioner Tillman entered his opinion and award. He found as fact, *inter alia*, that "Plaintiff's work duties were interrupted through being required to lift J.W. without the assistance of a second staff person and, in doing so, unexpectedly putting an unusual amount of strain on her left knee." He then concluded, *inter alia*:

> 3. While her job duties normally required her to work with physically challenged patients, the Plaintiff did not normally lift six feet four inch three hundred-pound patients without assistance. Therefore, on July 18, 2018, Plaintiff suffered a compensable injury by accident when she was required to lift J.W. without the assistance of a second staff person and, in doing so, was unexpectedly required to put an unusual amount of strain on her left knee. (Citations omitted).

Based on Deputy Commissioner Tillman's conclusions of law, he awarded Plaintiff benefits under the Workers' Compensation Act.

¶ 12 On 27 December 2019, Employer appealed to the Commission. The Commission heard oral arguments on 20 May 2020. On 19 January 2021, the Commission entered its Opinion and Award, reversing Deputy Commissioner Tillman's decision. It found, *inter alia*, a second staff member was not always required to lift J.W., the injury to Plaintiff's knee occurred "while she was performing

her job duties in the usual manner," and "[r]eacting to varying patient responses, even those not necessarily anticipated by a therapist, was part of [P]laintiff's usual job duties." The Commission then concluded, *inter alia*, "there was not any unlooked for or untoward event, nor was there any interruption of the work routine and the introduction thereby of unusual conditions likely to result in unexpected consequences." Accordingly, the Commission denied Plaintiff's claim for benefits under the Workers' Compensation Act. Plaintiff timely filed notice of appeal to this Court on 9 February 2021.

II. Jurisdiction

¶ 13 This Court has jurisdiction to address Plaintiff's appeal from the Opinion and Award of the North Carolina Industrial Commission pursuant to N.C. Gen. Stat. § 97-86 (2019).

III. Issues

¶ 14 The issues before this Court are whether: (1) the Commission's findings of fact 4 and 23 are supported by competent evidence; (2) the Commission erred in concluding Plaintiff was not injured by accident; and (3) the Commission erred in concluding Plaintiff's claim was not compensable under N.C. Gen. Stat. § 97-1 *et seq*.

IV. Standard of Review

¶ 15 This Court's review of an opinion and award of the Industrial Commission "is limited to consideration of whether competent evidence supports the Commission's

findings of fact and whether the findings support the Commission's conclusions of law. [Our] duty goes no further than to determine whether the record contains any evidence tending to support the finding." *Richardson v. Maxim Healthcare/Allegis Grp.*, 362 N.C. 657, 660, 669 S.E.2d 582, 584 (2008) (citations omitted). "Where no exception is taken to a finding of fact . . ., the finding is presumed to be supported by competent evidence and is binding on appeal." *Workman v. Rutherford Elec. Membership Corp.*, 170 N.C. App. 481, 486, 613 S.E.2d 243, 247 (2005) (citation omitted). The findings of fact of the Industrial Commission "may be set aside on appeal only when there is a complete lack of competent evidence to support them." *Click v. Pilot Freight Carriers*, 300 N.C. 164, 166, 265 S.E.2d 389, 390 (1980) (citation omitted). "Moreover, it should be noted that our courts construe the Workers' Compensation Act liberally in favor of compensability." *Cauble v. Soft-Play, Inc.*, 124 N.C. App. 526, 528, 528, 477 S.E.2d 678, 679 (1996) (citation omitted).

V. Analysis

¶ 16 On appeal, the principal issue for this Court is whether Plaintiff was injured as a result of an "accident," as defined by N.C. Gen. Stat. § 97-2(6). The parties do not dispute Plaintiff's injury was sustained in the course of her employment or that the injury arose out of her employment.

A. Injury by Accident

¶ 17 Whether an employee has a compensable claim is contingent upon whether she has experienced an "injury by accident arising out of and in the course of the employment . . . ." N.C. Gen. Stat. § 97-2(6) (2019); *see Slade v. Willis Hosiery Mills*, 209 N.C. 823, 825, 184 S.E. 844, 845 (1936). Our Supreme Court has defined the term "injury by accident" referenced in the Workers' Compensation Act as "an unlooked for and untoward event which is not expected or designed by the person who suffers the injury." *Hensley v. Farmers Federation Coop.*, 246 N.C. 274, 278, 98 S.E.2d 289, 292 (1957) (citation omitted).

1. Competent Evidence Supporting Findings of Fact

¶ 18 As an initial matter, we address whether Plaintiff properly presented her issues in her brief to this Court. In this case, Plaintiff challenged findings of fact 4, 11, and 23 in her proposed issues on appeal as well as in the issues presented in her brief; however, Plaintiff did not discuss her argument relating to finding of fact 11 or otherwise provide support for this argument in her brief.

¶ 19 Rule 28(a) of the North Carolina Rules of Appellate Procedure provides:

> [t]he function of all briefs required or permitted by these rules is to define clearly the issues presented to the reviewing court and to present the arguments and authorities upon which the parties rely in support of their respective positions thereon. The scope of review on appeal is limited to issues so presented in the several briefs. Issues not presented and discussed in a party's brief are deemed abandoned.

N.C. R. App. P. 28(a). Since Plaintiff failed to make any argument as to finding of fact 11, the issue is "deemed abandoned." *See* N.C. R. App. P. 28(a). Thus, finding of fact 11 is binding on appeal as an unchallenged finding. *See Workman*, 170 N.C. App. at 486, 613 S.E.2d at 247.

2. Finding of Fact 4

¶ 20 In her first argument, Plaintiff contends finding of fact 4 is not supported by competent evidence. Finding of fact 4 states:

> Plaintiff testified that she had worked with J.W. before July 18, 2018 on an inconsistent basis, and always with a second staff member to assist her in lifting J.W. Plaintiff had worked with J.W. prior to July 18, 2018, although not by herself. J.W. does not always require two therapists to lift him, and the specific goal [P]laintiff was working towards with J.W. on July 18, 2018 only required one therapist. It was not uncommon for therapists to work with patients alone as part of their job duties. Also, when asked in her recorded statement on August 14, 2018 if J.W. usually requires two people to lift him, plaintiff responded,
>
> > It depends. With modifications he's able to get up. When I say "modifications," like if the bed is raised to a certain height he's able to get up without a lot of physical assist. However, he has a goal to do sit-to-stand transfers. . . . I had to progress [to] that goal, so I had to do it in the parallel bars. So that day, you know, I got him by myself.
>
> Additionally, when asked to explain the main reason she had to lift J.W. by herself, plaintiff explained,
>
> > [A] lot of times you work by yourself. That's just how it is . . . Sometimes, you know, you treat by yourself,

> or if there's a highly involved patient sometimes you treat with another therapist. But they may not always be available.

¶ 21 Plaintiff specifically challenges this sentence in finding of fact 4: "J.W. does not always require two therapists to lift him." She contends this statement is contradicted by the quotation from her recorded statement, which was also included in finding of fact 4, that clarifies J.W. is able to get up with modifications. Moreover, Plaintiff argues this sentence ignores Mr. Simonetti's admission that J.W. was classified as a two-person lift.

¶ 22 Here, Mr. Simonetti testified he had previously assisted J.W. with a physical therapy sit-to-stand transfer without help from another PTA. The Commission chose to rely on Mr. Simonetti's testimony in entering finding of fact 4. Therefore, finding of fact 4, including the finding "J.W. does not always require two therapists to lift him," is supported by competent evidence. Although the evidence of record could have supported a finding to the contrary, the finding of fact is binding on appeal since there is competent evidence to support it. *See Deese v. Champion Int'l Corp.*, 352 N.C. 109, 115, 530 S.E.2d 549, 553–54 (2000).

3. Finding of Fact 23

¶ 23 In her second argument, Plaintiff asserts finding of fact 23 "is in error and contrary to the undisputed evidence." Specifically, she asserts that finding of fact 23 is not consistent to her testimony because she was not performing her usual job duties

in the usual manner; rather, she abruptly altered her stance and placed more weight on her knee after J.W. was "unexpectedly unable to provide the assistance Plaintiff expected." Finding of fact 23 states:

> Based upon the preponderance of the evidence in view of the entire record, the Full Commission finds that plaintiff's left knee injury on July 18, 2018 occurred while she was performing her usual job duties in the usual manner. Plaintiff previously worked alone with J.W. and other patients in the past and performed the same action of securing the gait belt around his waist to move him in prior therapy sessions. Reacting to varying patient responses, even those not necessarily anticipated by a therapist, was part of plaintiff's usual job duties.

¶ 24 "For an injury to be compensable under the Worker[s'] Compensation Act, the claimant must prove three elements: (1) that the injury was caused by an accident; (2) that the injury was sustained in the course of the employment; and (3) that the injury arose out of the employment." *Hollar v. Montclair Furniture Co.*, 48 N.C. App. 489, 490, 269 S.E.2d 667, 669 (1980) (citations omitted). "The elements of an 'accident,' [as an element for a claim under the Workers' Compensation Act] are the interruption of the routine of work and the introduction thereby of unusual conditions likely to result in unexpected consequences." *Moose v. Hexcel-Schwebel*, 163 N.C. App. 177, 180, 592 S.E.2d 615, 617 (2004); *see Calderwood v. Charlotte-Mecklenburg Hosp. Auth.*, 135 N.C. App. 112, 115, 519 S.E.2d 61, 63 (1999), *disc. rev. denied*, 351 N.C. 351, 543 S.E.2d 124 (2000). "If an employee is injured while carrying on [the

employee's] usual tasks in the usual way the injury does not arise by accident." *Gunter v. Dayco Corp.,* 317 N.C. 670, 673, 346 S.E.2d 395, 397 (1986). The mere fact that the injury was unexpected to the employee is insufficient to show that it was caused by an accident. *Gray v. Durham Transfer & Storage, Inc.*, 10 N.C. App. 668, 671, 179 S.E.2d 883, 885 (1970).

¶ 25 It is well-settled in North Carolina that "extra exertion by the employee, resulting in injury, may qualify as an injury by accident[,]" when "the extra and unusual exertion was accidental and . . . produced the original [injury] . . . ." *Jackson v. N.C. State Highway Comm'n*, 272 N.C. 697, 700–01, 158 S.E.2d 865, 868 (1968); *see Jackson v. Fayetteville Area Sys. of Transp.*, 88 N.C. App. 123, 126, 362 S.E.2d 569, 571 (1987); *Porter v. Shelby Knit, Inc.*, 46 N.C. App. 22, 27, 264 S.E.2d 360, (1980). Because Plaintiff in the case *sub judice* was required to exert extra force in carrying out an unusual task—assisting a 300-pound, two-person lift patient alone—in a usual way, we find this case analogous to *Jackson* and *Porter*. *See also Gunter,* 317 N.C. at 673, 346 S.E.2d at 397.

¶ 26 In *Jackson*, the employee was responsible for removing money from collection boxes on buses by inserting the boxes into a machine and turning them to allow the money to fall out. *Jackson*, 88 N.C. App. at 124, 362 S.E.2d at 570. While acting in the normal course of her duties, the employee was injured while collecting from a box that required more pressure to turn and open than any box she had previously

opened. *Id.* at 124–25, 362 S.E.2d at 570. After the employee was finally able to get the box to turn, she felt a pain shoot across her back down to her leg. *Id.* at 125, 362 S.E.2d at 570. We held the Commission's finding that the employee had "performed th[e] task of [emptying money boxes] without interruption of her normal work routine" was not supported by competence evidence. *Id.* at 126, 362 S.E.2d at 571. Based in part on this holding, we reversed and remanded the matter to the Commission. *Id.* at 127, 362 S.E.2d at 572.

¶ 27 In *Porter*, the employee worked as a knitter, and her duties included pulling rods from cloth. *Porter*, 46 N.C. App. at 22, 264 S.E.2d at 363–64. At the time the employee injured her back, she was pulling a rod that was "unusually hard" to remove, and she did not have assistance from anyone to pull it out as she normally did. *Id.* at 23, 264 S.E.2d at 361. Her testimony indicated the task was a usual part of her work, but the task did not normally rise to this level of difficulty. *Id.* at 23–24, 264 S.E.2d at 361–62. This Court concluded the employee's "extra exertion" to remove the rod was evidence of both unusual circumstances and an interruption of her normal work routine. *Id.* at 26–27, 264 S.E.2d at 363. We held "the Commission was warranted in finding as a fact and concluding as a matter of law that plaintiff suffered an injury 'by accident.'" *Id.* at 27, 264 S.E.2d at 363.

¶ 28 In the instant case, Plaintiff was attempting to assist J.W. with a sit-to-stand transfer by herself. Employer previously classified J.W. as a two-person lift for

purposes of a sit-to-stand transfer because of his stature and weight. Although the Commission found Plaintiff was performing her usual job duties in the normal manner, the record indicates Plaintiff had never previously assisted a patient of J.W.'s size with a sit-to-stand transfer without help from another employee. Furthermore, there is no evidence that Plaintiff previously single-handedly assisted patients classified by Employer as a two-person lift. *See Click*, 300 N.C. at 166, 265 S.E.2d at 390. Additionally, contrary to the implication of the Commission's finding, Plaintiff was not injured while performing the usual job duty of securing the gait belt around J.W.

¶ 29 Similar to *Jackson and Porter*, Plaintiff's unassisted sit-to-stand transfer with a patient weighing approximately 300 pounds caused Plaintiff "extra exertion," which constituted both an interruption of her work routine and an unusual circumstance. *See Porter*, 46 N.C. App. at 26–27, 264 S.E.2d at 363; *Jackson*, 88 N.C. App. at 126, 362 S.E.2d at 571; *Jackson*, 272 N.C. 697, 700–01; *see also Calderwood*, 135 N.C. App. 112, 115–16, 519 S.E.2d 61, 63–64 (holding there was "a complete lack of competent evidence to support the findings that [the nurse employee's injuries] 'occurred while performing her usual employment duties in the usual way,' and were 'not a result of any unforeseen or unusual event'" because the employee's regular work routine did not require her to lift the legs of a patient weighing 263 pounds); *Legette v. Scotland Mem'l Hosp.*, 181 N.C. App. 437, 640 S.E.2d 744 (2007) (affirming an opinion and

award of the Commission which found as fact a nurse employee was injured by accident where the employee had to perform a two-person maneuver by herself, positioning her body differently than normal and using more force than usual). Therefore, we hold the Commission's finding that Plaintiff's "left knee injury on July 18, 2018 occurred while she was performing her usual job duties in the usual manner" is unsupported by competent evidence. *See Richardson*, 362 N.C. at 660, 669 S.E.2d at 584.

B. Conclusion of Law 3

¶ 30 In her final argument, Plaintiff contends conclusion of law 3 is unsupported by the Commission's findings of fact. She further argues the Commission committed legal error by entering conclusion of law 3 because it conflicts with this Court's precedent. Employer argues conclusion of law 3 "is factually supported by the competent evidence of record as the evidence shows the events of the maneuver on July 18, 2018 were not unusual." After careful review, we agree with Plaintiff to the extent she argues conclusion of law 3 is unsupported by competent evidence.

¶ 31 Conclusion of law 3 states:

> In the present case, plaintiff's job duties normally required her to work with physically challenged patients ranging in size from small to large, such as J.W. While moving J.W. into a standing position, there was no interruption in [P]laintiff's normal work routine when J.W. experienced difficulty pulling himself into a standing position, thereby requiring [P]laintiff to exert additional force to assist him.

> Additionally, the amount of effort or exertion needed to lift J.W., or the lack of assistance of another person to lift him, was not an unusual condition, as [P]laintiff has worked alone in the past, and J.W. did not always require two people to help lift him from a sitting to standing position. The Full Commission concludes there was not any unlooked for or untoward event, nor was there any interruption of the work routine and the introduction thereby of unusual conditions likely to result in unexpected consequences. (citations omitted). Accordingly, the Full Commission concludes that [P]laintiff has failed to prove by a preponderance of the evidence that she suffered an injury by accident when she lifted J.W.

¶ 32 Since we conclude finding of fact 23 is unsupported by competent evidence, we review the remaining findings of fact to determine whether they support conclusion of law 3. We hold the remaining findings of fact do not support the Commission's conclusions that "there was no interruption in plaintiff's normal work routine" when she was injured; "the amount of effort or exertion needed to lift J.W., or the lack of the assistance of another person to lift him, was not an unusual condition"; "there was not any unlooked for or untoward event"; and "there [was no] interruption of the work routine and the introduction thereby of unusual conditions likely to result in unexpected consequences." *See Richardson*, 362 N.C. at 660, 669 S.E.2d at 584.

VI. Conclusion

¶ 33 Finding of fact 4 is supported by competent evidence because the Commission was warranted in relying on Mr. Simonetti's testimony. Finding of fact 23 is not supported by competent evidence because there is no evidence of record to show that

Plaintiff was performing her usual job duties in the usual manner. Likewise, conclusion of law 3 is unsupported by findings of fact considering Plaintiff's extra exertion caused an unusual condition and interruption of Plaintiff's normal work routine. Accordingly, we reverse the Opinion and Award of the Commission and remand the case for entry of an opinion and award concluding that Plaintiff was not performing her usual job duties in the usual manner and that Plaintiff's extra exertion caused an unusual condition and interruption of Plaintiff's normal work routine, and awarding benefits.

REVERSED AND REMANDED.

Judges COLLINS and HAMPSON concur.

Report per Rule 30(e).