

Mavretic - affirmed.

Riggbee  
Sellers

NO. COA99-980

NORTH CAROLINA COURT OF APPEALS

Filed: 20 June 2000

FILED  
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CLERK OF THE COURT OF APPEALS  
OF NORTH CAROLINA

CHARLES A. SIMMONS,  
Employee,  
Plaintiff;

v.

North Carolina  
Industrial Commission  
I.C. No. 676006

LANDFALL ASSOCIATES,  
Employer;

AETNA LIFE & CASUALTY/TRAVELERS  
INSURANCE COMPANY,  
Carrier;  
Defendant.

Appeal by plaintiff from opinion and award entered 2 July 1999 by the North Carolina Industrial Commission. Heard in the Court of Appeals 30 May 2000.

*KATHLEEN SHANNON GLANCY, P.A., by J. William Snyder, Jr., for plaintiff-appellant.*

*MARSHALL, WILLIAMS & GORHAM, L.L.P., by Ronald H. Woodruff, for defendants-appellees.*

TIMMONS-GOODSON, Judge.

Charles A. Simmons ("plaintiff") appeals from an opinion and award of the North Carolina Industrial Commission ("the Full Commission" or "the Commission") denying plaintiff's claim for workers' compensation benefits. The relevant facts follow.

Plaintiff was employed by Landfall Associates ("defendant-employer") as a landscaper. On the morning of 21 November 1996,

plaintiff and a co-worker were collecting litter on the company premises. As plaintiff stepped out of a vehicle that was transporting him around the property, his knee buckled and he fell to the ground. Plaintiff injured his shoulder and knee in the incident.

Plaintiff reported the accident to defendant-employer and was taken to Medac, where a physician diagnosed plaintiff's condition as a knee sprain and advised him to see an orthopedic surgeon. When plaintiff reported back to defendant-employer, the company's human resource representative referred him to Dr. Dale W. Boyd, Jr. On 26 November 1996, Dr. Boyd performed arthroscopic surgery on plaintiff's knee to repair a tear to the anterior cruciate ligament. Following the surgery, plaintiff underwent physical therapy and slowly improved. Additionally, plaintiff was treated for impingement type symptoms of the right shoulder, which also improved over time. In May of 1997, plaintiff was released to return to work with restrictions against climbing and working on elevated surfaces. Plaintiff did not return to work, however, until 16 June 1997, when defendant-employer offered plaintiff suitable work.

Defendant-employer reported plaintiff's injury to Aetna Life & Casualty/Travelers Insurance Company, defendant-employer's insurance carrier, on 22 November 1996, but the insurer denied liability. Plaintiff, therefore, requested a hearing before the Industrial Commission and, on 25 June 1998, the matter was heard before Deputy Commissioner Morgan S. Chapman. On 13 November 1998,

Deputy Commissioner Chapman filed an opinion and award denying plaintiff's claim, and plaintiff appealed the decision to the Full Commission. On 2 July 1999, the Full Commission affirmed the deputy commissioner's decision. The Commission found that plaintiff's injury "resulted from his knee giving way due to an unknown physical infirmity." Thus, the Commission concluded that plaintiff's fall was due to an idiopathic condition and that his injuries did not result from an accident arising out of his employment. Plaintiff appeals.

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Plaintiff argues that the Commission's findings of fact and conclusions of law regarding the etiology of his injuries was not supported by competent evidence of record. Plaintiff contends that the "unexplained fall rule" articulated in *Robbins v. Hosierey Mills*, 220 N.C. 246, 17 S.E.2d 20 (1941), controls the outcome of this case. Plaintiff argues that "[o]nly when an idiopathic injury occurs under circumstances unrelated to the employment is the claim not compensable." Thus, because plaintiff's injury was traceable to his employment, it was compensable. We disagree.

The standard of review on appeal from an opinion and award of the Full Commission is well established:

A review of an appeal from the Commission is limited to a determination of whether the findings of fact are supported by any competent evidence and whether those findings support the legal conclusions. If the Commission's findings are supported by any competent evidence, they are conclusive on appeal even if there is evidence to support contrary findings. Therefore, this Court is limited to determining: (1) whether competent

evidence exists to support the Commission's findings, and (2) whether those findings justify its conclusions of law.

*Jarvis v. Food Lion, Inc.*, \_\_ N.C. App. \_\_, \_\_, 517 S.E.2d 388, 391, disc. review denied, \_\_ N.C. \_\_, \_\_ S.E.2d \_\_ (Nov. 4, 1999) (No. 434P99) (citations omitted).

In the instant case, the Commission found that "[plaintiff's] fall was not unexplained" and that "[i]t resulted from his knee giving way due to an unknown physical infirmity." The Commission further found "[t]he evidence did not establish that, due to his employment, plaintiff was placed in a position of increased risk of harm from a fall." Plaintiff's own statements support these findings. Shortly after the injury occurred, plaintiff reported to defendant-employer's human resources representative that he fell because his "knee gave out." Plaintiff stated, "I got out of the truck just like I done hundreds of times before and my knee just folded the wrong way, and I went down."

Our Supreme Court's holding in *Cole v. Guilford County*, 259 N.C. 724, 131 S.E.2d 308 (1963), bears on the facts of this case. In *Cole*, the plaintiff, while leaving the Courthouse after serving as a juror, suffered an injury when her "leg just gave way and [she] fell." *Id.* at 725, 131 S.E.2d at 310. Like plaintiff in the present case, the plaintiff in *Cole* had no history of medical problems with her leg. On appeal from a decision awarding workers' compensation benefits for plaintiff's injury, the Supreme Court found that the cause of plaintiff's fall was known, i.e., that "her leg simply gave way because of a physical infirmity, the nature of

which we do not know." *Id.* at 727, 131 S.E.2d at 311. The Court then explained that the plaintiff's idiopathic condition could just as well "have caused [her] to fall in [her] own home with the same injurious results[.]" *Id.* at 728, 131 S.E.2d at 312. Accordingly, the Court concluded that the plaintiff's injury did not arise out of her employment as a juror. In accordance with *Cole*, we hold that there was competent evidence in the record to support the Commission's finding that plaintiff's fall "resulted from his knee giving way due to an unknown physical infirmity." This finding, likewise, supports the Commission's conclusion that plaintiff's idiopathic condition was the sole cause of his injury and that he was not entitled to benefits under the Workers' Compensation Act.

Based upon the foregoing, the opinion and award of the North Carolina Industrial Commission is

Affirmed.

Judges LEWIS and SMITH concur.

Report per Rule 30(e).