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Patton, Ashley v. General Motors

Tennessee Workers' Compensation Appeals Board

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**TENNESSEE BUREAU OF WORKERS' COMPENSATION
WORKERS' COMPENSATION APPEALS BOARD**

Ashley Patton)	Docket No. 2016-05-0749
)	
v.)	State File No. 50575-2016
)	
General Motors, et al.)	
)	
Appeal from the Court of Workers')	
Compensation Claims,)	
Robert V. Durham, Judge)	

Affirmed and Remanded - Filed January 17, 2017

This interlocutory appeal involves an employee who alleged bilateral hand and wrist injuries and bilateral Achilles tendon injuries related to her employment as an assembly line worker. The employer denied the claim. Following an expedited hearing, the trial court determined the employee presented insufficient medical proof to establish she will likely prevail at trial and denied benefits. The employee has appealed. We affirm the trial court's decision and remand the case.

Presiding Judge Marshall L. Davidson, III, delivered the opinion of the Appeals Board in which Judge David F. Hensley and Judge Timothy W. Conner joined.

Ashley Patton, Columbia, Tennessee, employee-appellant, pro se

Jason A. Lee, Nashville, Tennessee, for the employer-appellee, General Motors

Memorandum Opinion¹

Ashley Patton ("Employee"), an assembly line worker, filed a petition for benefit determination seeking workers' compensation benefits for hand and wrist injuries and Achilles tendon injuries she claims stemmed from her employment with General Motors

¹ "The Appeals Board may, in an effort to secure a just and speedy determination of matters on appeal and with the concurrence of all judges, decide an appeal by an abbreviated order or by memorandum opinion, whichever the Appeals Board deems appropriate, in cases that are not legally and/or factually novel or complex." Appeals Bd. Prac. & Proc. § 1.3.

(“Employer”). Following a hearing at which Employee testified, the trial court concluded Employee had not submitted sufficient medical proof to establish she was likely to succeed at trial. Thus, the trial court denied benefits. We affirm.

First, the only medical opinion regarding the cause of Employee’s hand and wrist complaints was provided by a physician’s assistant, who diagnosed her with bilateral carpal tunnel syndrome. However, a physician’s assistant, similar to a nurse, is not qualified to provide an expert medical opinion with respect to causation. *See Dorsey v. Amazon.com, Inc.*, No. 2015-01-0017, 2015 TN Wrk. Comp. App. Bd. LEXIS 13, at *9 (Tenn. Workers’ Comp. App. Bd. May 14, 2015). The record contains no opinion from any physician regarding whether Employee’s carpal tunnel syndrome is causally related to her employment. Nor does the record contain any expert medical opinion regarding Employee’s Achilles tendon pain.

Second, although the Employee apparently testified about her injuries and the medical treatment she received, the record on appeal does not contain a transcript or a statement of the evidence. Thus, the totality of the evidence introduced in the trial court is unknown, and we decline to speculate as to the nature and extent of the proof presented to the trial court. Instead, consistent with established Tennessee law, we presume that the trial court’s decision was supported by sufficient evidence. *See Leek v. Powell*, 884 S.W.2d 118, 121 (Tenn. Ct. App. 1994) (“In the absence of a transcript or a statement of the evidence, we must conclusively presume that every fact admissible under the pleadings was found or should have been found favorably to the appellee.”).

Third, Employee has not filed a position statement, brief, or any other form of argument on appeal to explain how the trial court erred in deciding her case. In her notice of appeal, she merely states, “[doctor] statements available.” As stated by the Tennessee Supreme Court, “[i]t is not the role of the courts, trial or appellate, to research or construct a litigant’s case or arguments for him or her.” *Sneed v. Bd. of Prof’l Responsibility of the Sup. Ct. of Tenn.*, 301 S.W.3d 603, 615 (Tenn. 2010). Were we to search the record for possible errors and raise issues and arguments for Employee, we would essentially be acting as her counsel. The law clearly prohibits us from doing so. *See Webb v. Sherrell*, No. E2013-02724-COA-R3-CV, 2015 Tenn. App. LEXIS 645, at *5 (Tenn. Ct. App. Aug. 12, 2015).

For these reasons, the trial court’s decision is affirmed. The case is remanded for any further proceedings that may be necessary.



FILED

January 17, 2017

**TENNESSEE
WORKERS' COMPENSATION
APPEALS BOARD**

Time: 8:15 A.M.

**TENNESSEE BUREAU OF WORKERS' COMPENSATION
WORKERS' COMPENSATION APPEALS BOARD**

Ashley Patton)	Docket No. 2016-05-0749
)	
v.)	State File No. 50578-2016
)	
General Motors, et al.)	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Appeals Board's decision in the referenced case was sent to the following recipients by the following methods of service on this the 17th day of January, 2017.

Name	Certified Mail	First Class Mail	Via Fax	Fax Number	Via Email	Email Address
Ashley Patton					X	Apatton0183@gmail.com
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Robert V. Durham, Judge					X	Via Electronic Mail
Kenneth M. Switzer, Chief Judge					X	Via Electronic Mail
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