



## Baker v. West Fraser South

2004 | Cited 0 times | Court of Appeals of Arkansas | September 29, 2004

### NOT DESIGNATED FOR PUBLICATION

Kenya Baker appeals a decision of the Workers' Compensation Commission that denied her benefits for complications to her pregnancy that resulted in the ultimate loss of the fetus. The Commission found that she had failed to connect the miscarriage to her compensable injury. Baker argues that the decision is not supported by substantial evidence. We affirm.

At the hearing before the administrative law judge it was stipulated that Baker sustained a compensable injury on February 5, 2002, when she fell through a hole in the floor of the lumber mill where she worked. Baker fell between six and eight feet and landed on a cable rack injuring her neck, left shoulder, left hip, left thigh, and right ankle. She testified that she experienced slight spotting immediately after the accident. However, prior to this injury, Baker had been taken off of work from January 4-15, 2002, for problems related to her pregnancy. In fact, on January 22, 2002, her "Antepartum Record" indicated that she had complained of "two episodes of spotting since the last visit 1-2-02."

Her first medical record following the injury, on February 1, 2002, showed the fetus to have good cardiac activity, no evidence of "abruption," and an "adequate amount of amniotic fluid." On February 15, 2002, Baker received additional medical treatment. The medical records indicate that a pelvic ultrasound revealed "that the uterus is normal in size for gestational age and the uterus contains a viable fetus. The fetus is appropriate for gestational age and there is normal fetal morphology and normal fetal movement." Again, on February 18, 2002, more testing was conducted. These test showed "good fetal movement, adequate amount of amniotic fluid, placenta intact." On February 22, 2002, another pelvic ultrasound was performed. This ultrasound showed "the uterus to be essentially normal in appearance for its gestational age with a viable infant with normal fetal heart activity and normal amniotic fluid."

However, this examination also showed that there was "perhaps a small area of abruption surrounding a portion of the placenta." The record went on to note that "this is an equivocal finding and may or may not be significant and no intervention is possible in order to correct this." In the report, this potential "abruption" was not mentioned in connection with Baker's fall or any type of trauma.

On February 27, 2002, Baker reported feeling "much better." On March 12, 2002, Baker received more tests, which showed "no obvious placental abruption." Baker was transported to Baptist Health



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Medical Center on March 14, 2002. Her treating physician, Dr. Chatelain, recommended delivery due to an inflammatory condition known as "chorioamnionitis." On March 16, 2002, Baker delivered a nonviable fetus.

The full Commission, overruling the Administrative Law Judge (ALJ), found no causal connection between Baker's miscarriage and her compensable injury. Baker argues on appeal that the Commission's finding was not based on substantial evidence. In a workers' compensation case, the claimant has the burden of proving by a preponderance of the evidence that her claim is compensable. *Jordan v. Tyson Foods, Inc.*, 51 Ark. App. 100, 911 S.W.2d 593 (1995). The claimant must also prove a causal connection between the work-related accident and the later disabling injury. *Lybrand v. Arkansas Oak Flooring Co.*, 266 Ark. 946, 588 S.W.2d 449 (Ark. App. 1979). The determination of whether the causal connection exists is a question of fact for the Commission to determine. *Jeter v. B.R. McGinty Mech.*, 62 Ark. App. 53, 968 S.W.2d 645 (1998). Although medical evidence is not essential to establish a causal relationship between the injury and the work-related accident, when an appellant chooses to rely on medical evidence to establish causation, such medical evidence must satisfy the statutory requirement that medical opinions be stated within a reasonable degree of medical certainty. See Ark. Code Ann. § 11-9-102(16)(B) (Supp.1999); *Freeman v. Con-Agra Frozen Foods*, 344 Ark. 296, 40 S.W.3d 760 (2001).

On appeal, we view the evidence in the light most favorable to the Commission's findings and will affirm if those findings are supported by substantial evidence. *Winslow v. D.& B. Mech. Contrs.*, 69 Ark. App. 285, 13 S.W.3d 180 (2000). Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *College Club Dairy v. Carr*, 25 Ark. App. 215, 756 S.W.2d 128 (1988). To reverse a decision of the Commission, we must be convinced that fair-minded persons, with the same facts before them, could not have reached the conclusion arrived at by the Commission. *Franklin Collier Farms v. Chapple*, 18 Ark. App. 200, 712 S.W.2d 334 (1986).

Where a claim is denied because the claimant has failed to show entitlement to compensation by a preponderance of the evidence, the substantial-evidence standard of review requires us to affirm the Commission if its opinion displays a substantial basis for the denial of the relief sought. *Stephenson v. Tyson Foods, Inc.*, 70 Ark. App. 265, 19 S.W.3d 36 (2000). These rules insulate the Commission from judicial review and properly so, as it is a specialist in this area and we are not. *Id.*

Baker argues that the Commission erred in finding that she failed to establish a connection between her miscarriage and her injury by medical evidence supported by objective findings. However, the record indicates that Baker's physician, Dr. Chatelain, opined in April of 2002 that "[i]t is difficult for me to directly relate the loss of this pregnancy to the fall." Also, in May of 2002, another of Baker's physicians, Dr. Coffman, noted that because fetal loss is a common occurrence in the practice of obstetrics he is often asked to opine regarding the cause of the loss. He stated that the three possible categories of answers, when an answer can be found, are 1) medical certainty, 2) medical probability,



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and 3) medical possibility. He rated the causal connection between Baker's loss and the fall as merely a "medical possibility."

Expert opinions based on "could," "may," or "possibly" lack the definiteness required to meet Baker's causation burden of a reasonable degree of medical certainty. *Frances v. Gaylord Container Corp.*, 341 Ark. 527, 20 S.W.3d 280 (2000). The Commission has the duty of weighing the medical evidence as it does any other evidence, and its resolution of the medical evidence has the force and effect of a jury verdict. *Continental Express v. Harris*, 61 Ark. App. 198, 965 S.W.2d 811 (1998).

On the record before us, we cannot say that the Commission lacked a substantial basis for its denial of the relief Baker sought. Because there is substantial evidence to support a finding that Baker failed to establish by medical evidence supported by objective findings that her injury caused her miscarriage, we must affirm the Commission's decision.

Affirmed.

Stroud, C.J., and Hart, J., agree.

