

ARKANSAS COURT OF APPEALS

DIVISION I

No. CA09-885

NETTLETON SCHOOL DISTRICT
APPELLANT

V.

LAVEENA ADAMS

APPELLEE

Opinion Delivered January 6, 2010

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION [NO. F805329]

AFFIRMED

JOHN MAUZY PITTMAN, Judge

Nettleton School District appeals from a decision of the Arkansas Workers' Compensation Commission, arguing that the evidence is insufficient to support the Commission's findings supporting its award of benefits to appellee, Laveena Adams. We affirm.

Appellee was employed by appellant as a custodian. She injured her right upper extremity when she slipped on a wet spot while cleaning a floor at work. Appellee reported the accident and was treated conservatively. Her treatment was terminated when an authorized physician, Dr. Rhodes, opined that her arm problems were not work related and released her to full duty. Appellee, still unable to use her hand, then sought treatment from other physicians, Drs. Moore and Rutherford, without petitioning for a change of physician. She was ultimately diagnosed with vasospasm resulting from the blunt trauma to her arm, and

additional medical treatments were recommended to assist with healing. Based on appellee's history, Dr. Rutherford opined that appellee's problems were directly and solely attributable to her work-related injury. Appellee filed a claim for benefits for continued temporary total disability and for the treatment she received after being released by Dr. Rhodes. Appellant argued that appellee's problems were not work related and that the subsequent treatment was unauthorized. The Commission found that appellee's continuing temporary disability and need for treatment were work related, and that she was not barred from obtaining benefits for the unauthorized treatments because she had never received a copy of Commission form AR-N explaining the procedure for obtaining a change of physician. Appellant argues on appeal that these findings were erroneous.

In essence, the work-relatedness issue in the present case is no more than a question of the credibility of appellee and of the opposing medical opinions, which are matters within the sole province of the Commission. See *Poulan Weed Eater v. Marshall*, 79 Ark. App. 129, 84 S.W.3d 878 (2002). Here, the Commission expressly credited the testimony of appellee and Dr. Rutherford. It is well established that, when the Commission chooses to accept the testimony of one physician over that of another regarding conflicting medical evidence, the appellate court is powerless to reverse the decision. See, e.g., *Cole v. Commerce & Industry Insurance Co.*, 2009 Ark. App. 617. The change-of-physician question is similarly straightforward: appellee testified that, although she signed a copy of form AR-N at the request of her employer, she was not provided with a copy and was unable to examine the

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change-of-physician procedure printed on the back of the form. This testimony was found to be credible and, because it can reasonably be inferred from this evidence that a copy of form AR-N was not “furnished and delivered” to appellee as required by statute, we hold that it was substantial evidence to support the Commission’s finding. *See Sharp v. Lewis Ford, Inc.*, 78 Ark. App. 164, 78 S.W.3d 746 (2002).

Affirmed.

HART and GLADWIN, JJ., agree.