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**UTAH LABOR COMMISSION**

**CHERYL DEARING,**

**Petitioner,**

vs.

**TOOELE COUNTY SCHOOL  
DISTRICT,**

**Respondent.**

**ORDER AFFIRMING  
ALJ'S DECISION**

**Case No. 06-0587**

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Tooele County School District (“Tooele”) asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse’s award of benefits to Cheryl Dearing under the Utah Workers’ Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to § 63G-4-301 of the Utah Administrative Procedures Act and § 34A-2-801(3) of the Utah Workers’ Compensation Act.

**BACKGROUND AND ISSUE PRESENTED**

Ms. Dearing claims workers’ compensation benefits from Tooele for a work accident that occurred on January 20, 2006, injuring her right shoulder. Judge La Jeunesse held an evidentiary hearing and then referred the medical aspects of the case to a medical panel. After reviewing the panel’s report, Judge La Jeunesse found that the work accident medically caused Ms. Dearing’s shoulder condition.

In its motion for review, Tooele argues that Ms. Dearing’s shoulder condition is not compensable because it did not arise out of and in the course of her employment.

**FINDINGS OF FACT**

The Commission adopts Judge La Jeunesse’s findings of fact. The facts relevant to the motion for review can be summarized as follows:

On Friday, January 20, 2006, Ms. Dearing was in the parking lot of the school on her way to a meeting at another building when she slipped and fell backwards onto the ice. Ms. Dearing is unable to recall the specific physical mechanics as to how she landed during the fall, but when she got up and into the car, her right shoulder was hurting. Ms. Dearing’s right shoulder pain increased over the weekend and on Monday, Ms. Dearing reported the accident to the school. At some point between January 25<sup>th</sup> and February 1<sup>st</sup>, Ms. Dearing fell again when she was shoveling snow, although this time she fell to her knees.

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On February 1, 2006, Ms. Dearing was first treated for her shoulder pain, having surgery on the shoulder the following month. Ms. Dearing's medical provider, Scott Bruderer P.A., found the right shoulder condition was caused by the work accident of January 20, 2006. Tooele's medical consultant, Dr. Anderson, denied a medical causal connection between the right shoulder condition and the work accident. The medical panel examined Ms. Dearing and the medical records and found that the work accident medically caused Ms. Dearing's right shoulder condition.

**DISCUSSION AND CONCLUSION OF LAW**

The only issue before the Commission is whether Ms. Dearing's right shoulder injury was medically caused by a work accident. Tooele argues that the record does not support Ms. Dearing's claim that she hurt her right shoulder in a work accident on January 20, 2006, or that the alleged accident caused her right shoulder condition. Tooele contends that the reference in the medical notes as to how Ms. Dearing had fallen twice shoveling snow at home cast doubt as to Ms. Dearing's claim that it was the work injury that caused her injury. The Commission has reviewed the evidence and finds that the record supports Ms. Dearing's claim that her injury was caused by her work injury. Ms. Dearing acknowledges that she fell at home later but states that she had only fallen to her knees. She has consistently claimed that it was the work accident, which she had reported to the school the following Monday, that caused the shoulder injury. Thus, the Commission finds the evidence supports Ms. Dearing's claim that she hurt her right shoulder in a work accident on January 20, 2006.

The Commission has also reviewed the medical panel report and finds it persuasive on the issue of medical causation. As noted by Judge La Jeunesse, the independent medical panel acknowledged that the medical records regarding the incident were sketchy; however, the panel was still able to conclude that based on Ms. Dearing's account that the pain began after the work accident, that the work accident was the medical cause of Ms. Dearing's right shoulder condition. Thus, after reviewing the evidentiary record, including the opinions of the panel and Ms. Dearing's medical provider, the Commission finds the work injury of January 20, 2006, medically caused Ms. Dearing's right shoulder condition and affirms Judge La Jeunesse's decision awarding medical expenses.

**ORDER**

The Commission affirms Judge La Jeunesse's decision. It is so ordered.

Dated this 28<sup>th</sup> day of May, 2009.

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Sherrie Hayashi  
Utah Labor Commissioner

**IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.**

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**NOTICE OF APPEAL RIGHTS**

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.