
UTAH LABOR COMMISSION

JOAN HENDERSON,

Petitioner,

vs.

**WORKFORCE STAFFING SERVICES
and WORKERS COMPENSATION FUND,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 09-0053

Joan Henderson asks the Utah Labor Commission to review Administrative Law Judge Hann's denial of her claim for benefits 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. Henderson claims workers' compensation benefits for a head injury allegedly caused by tripping over a traffic control barrel and falling while working for Workforce Staffing Services on May 2, 2007. After holding an evidentiary hearing on Ms. Henderson's claim, Judge Hann found that Ms. Henderson did not trip over the traffic barrel but, instead, fainted for reasons unrelated to her employment. Judge Hann therefore concluded that Ms. Henderson was not eligible for workers' compensation benefits because her injury did not arise out her employment. Ms. Henderson challenges Judge Hann's decision by reiterating that her injury was caused by tripping over the traffic barrel.

FINDINGS OF FACT

The Commission adopts Judge Hann's findings of fact, summarized as follows. On May 2, 2007, Ms. Henderson was employed by Workforce Staffing as a flagger on a road construction project. Shortly after beginning work that morning she fell and hit her head on the ground. Another person working on the project saw Ms. Henderson fall and testified that she was not close enough to a traffic barrel to have tripped over it.

Ms. Henderson was then taken to the emergency room at Logan Regional Hospital where she was diagnosed with hypokalemia (low levels of potassium in the blood). The next day, Ms. Henderson sought attention for her injury from Gateway Medical. During this visit, Ms. Henderson explained that she had fainted—she said nothing about having tripped. Gateway Medical attributed

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Ms. Henderson's fall to dehydration, originally believed to be a side effect of her blood pressure medication. Dr. Welter at Gateway Medical later explained that Ms. Henderson was not taking the medication at the time, but maintained the diagnosis that she had suffered from hypokalemia.

On November 11, 2008, approximately eighteen months after the accident, Ms. Henderson returned to Gateway Medical and asserted for the first time that her fall was actually caused by tripping over a traffic barrier. This new version of the cause of accident was later incorporated into various medical reports.

DISCUSSION AND CONCLUSION OF LAW

In order to prevail on her claim for workers' compensation benefits, Ms. Henderson must show that her injury arose out of her employment with Workforce Staffing. The Commission has carefully considered the evidence in this matter and notes that Ms. Henderson admitted she fainted before later changing her account of the accident and claiming that she tripped over a traffic barrel. Furthermore, witness testimony establishes that Ms. Henderson was not close to a traffic barrel at the time of the accident. The Commission therefore agrees with Judge Hann's evaluation of the evidence and finds that Ms. Henderson's fall was caused by reasons unrelated to her work. Because Ms. Henderson's fall did not arise out of her employment, her injury is not compensable under the Utah Workers' Compensation Act.

ORDER

The Commission affirms Judge Hann's decision of July 8, 2009. It is so ordered.

Dated this 14th day of October, 2009.

Sherrie Hayashi
Utah Labor Commissioner

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.