

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT JACKSON

FILED

March 25, 1999

Cecil Crowson, Jr.
Appellate Court Clerk

CHARLOTTE L. TOWNSEND,)	
)	TENNESSEE CLAIMS
Plaintiff/Appellant)	COMMISSION
)	
v.)	NO. 02S01-9807-BC-00069
)	
STATE OF TENNESSEE,)	HON. MARTHA BRASFIELD,
)	COMMISSIONER
Defendant/Appellee)	

For the Appellant:

Steve Taylor
Kim, Willcox, McArthur & Taylor
6263 Poplar Avenue
Suite 601
Memphis, TN 38119

For the Appellee:

John Knox Walkup
Attorney General and Reporter

Mary Byrd Ferrara
Assistant Attorney General
Civil Rights & Claims Division
Cordell Hull Building, Second Floor
425 Fifth Avenue North
Nashville, TN 37243

MEMORANDUM OPINION

Members of Panel:

Justice Janice Holder
Senior Judge John K. Byers
Senior Judge F. Lloyd Tatum

AFFIRMED

BYERS, Senior Judge

OPINION

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law.

Review of the findings of fact made by the trial court is *de novo* upon the record of the trial court, accompanied by a presumption of the correctness of the findings, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2). *Stone v. City of McMinnville*, 896 S.W.2d 548, 550 (Tenn. 1995). The application of this standard requires this Court to weigh in more depth the factual findings and conclusions of the trial court in a workers' compensation case. See *Corcoran v. Foster Auto GMC, Inc.*, 746 S.W.2d 452, 456 (Tenn. 1988).

This is an appeal from the action of the claims commissioner in granting summary judgment to the State and denying the plaintiff recovery under a workers' compensation claim.

We affirm the judgment of the commissioner.

The record before us, which consists of the pleadings and various exhibits, shows the plaintiff began to experience carpal tunnel syndrome problems sometime in early 1990. On January 17, 1990, the plaintiff resigned from the Department of Human Services because of the carpal tunnel syndrome. She returned to work on December 16, 1990.

The plaintiff was diagnosed with carpal tunnel syndrome on December 1, 1994. In January and February of 1995, she was out of work to undergo carpal tunnel surgery. So far as we are able to determine from the record before us, the plaintiff continued to work for the State until at least May 21, 1997, when she filed a claim with the Tennessee Claims Commission. The claims commission denied the claim because they were of the opinion that the plaintiff's knowledge that she had carpal tunnel syndrome in 1990 and her absence from work triggered the running of the statute of limitations.

On September 19, 1997, the plaintiff appealed the decision of the claims commission to a commissioner of claims. On October 20, 1997, the State filed a motion to dismiss the claim and for summary judgment because the record showed

the one year statute of limitations, provided for in workers' compensation cases, barred the claim. See Tenn. Code Ann. § 50-6-203. On January 16, 1998, the plaintiff filed a response to the State's motion to dismiss. After various pleadings by the parties, the plaintiff on February 3, 1998 filed a motion to amend her original complaint to allege that an injury occurred in May 1997, which aggravated her carpal tunnel syndrome and made it impossible for her to work.

The plaintiff abandoned the original complaint by this motion to amend. The commissioner did not err in denying the plaintiff the right to amend her complaint. The plaintiff's proposed amendment seeks to state a new cause of action. Rule 15.01 of the Tennessee Rules of Civil Procedure does not permit an amendment which would revive a claim barred by an appropriate statute of limitations. *Rainey Bros. v. Memphis & Shelby County*, 821 S.W.2d 938 (Tenn. App. 1991).

The plaintiff's motion does however create a new claim. Tenn. Code Ann. § 9-8-307 permits claims for workers' compensation to be filed against the State with the claims commission. Tenn. Code Ann. § 9-8-403 permits an appeal of the decision to an individual commissioner for review.

In this case, as the State points out, the commissioner had no authority to hear an original complaint which the motion to amend sought to raise and the commissioner was without jurisdiction to hear the complaint. The ruling of the commissioner is correct and we affirm the same.

The cost of this appeal is taxed to the plaintiff.

John K. Byers, Senior Judge

CONCUR:

Janice Holder, Justice

F. Lloyd Tatum, Senior Judge

