

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

AT NASHVILLE  
(September 25, 1997 Session)

**FILED**

December 2, 1997

Cecil W. Crowson  
Appellate Court Clerk

IRENE G. VANCE, )  
 ) DAVIDSON CHANCERY  
 )  
 ) Plaintiff-Appellee, ) Hon. Carol McCoy,  
 ) ) Chancellor.  
 )  
 ) v. )  
 ) No. 01S01-9703-CH-00067  
 )  
 ) PRINTING INDUSTRY ASSOCIATION )  
 ) OF THE SOUTH, )  
 ) )  
 ) Defendant-Appellant. )

For Appellant:

Daniel C. Todd  
Evans & Todd  
Nashville, Tennessee

For Appellee:

Joseph L. Mercer, III  
Nashville, Tennessee

MEMORANDUM OPINION

Members of Panel:

Lyle Reid, Associate Justice, Supreme Court  
William S. Russell, Special Judge  
Joe C. Loser, Jr., Special Judge

AFFIRMED AND REMANDED

Loser, Judge

MEMORANDUM 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. section 50-6-225(e)(3) for hearing and reporting of findings of fact and conclusions of law. The employer contends the employee's injury did not arise out of her employment. The employee contends the award is inadequate. As discussed below, the panel has concluded the judgment should be affirmed.

Before she began working for the employer, Printing Industry Association of the South, the employee or claimant, Vance, worked as a nurse technician for Baptist Hospital in Nashville until she suffered a back injury for which she received a workers' compensation award based on fifty percent to the body as a whole. She began working for the present employer on May 23, 1995, doing bindery work requiring repetitive use of the hands.

On September 1, 1995, while attempting to lift a carton of tapes, she felt a sudden pain in her shoulder and neck, but finished her shift. She sought medical care the next day when the pain worsened and her hands swelled. She was diagnosed with bilateral carpal tunnel syndrome which was surgically treated.

The operating surgeon did not testify, but a report from him reflected that he advised the claimant she would never completely recover from the condition. Two examining physicians confirmed the injury was causally connected to the accident of September 1, 1995 at work. One of them assessed her permanent medical impairment at ten percent to both arms.

The chancellor found the claimant's injury compensable and awarded permanent partial disability benefits based on twenty-eight percent to both arms. Appellate review is de novo upon the record of the trial court, accompanied by a presumption of correctness of the findings of fact, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. section 50-6-225(e)(2).

An accidental injury arises out of one's employment when there is apparent to the rational mind, upon a consideration of all the circumstances, a causal connection between the conditions under which the work is required to be performed and the resulting injury. Fink v. Caudle, 856 S.W.2d 952 (Tenn. 1993). The evidence fails to preponderate against the chancellor's finding that the claimant's injury was one arising out of her employment with the defendant.

Once the causation and permanency of an injury have been established by expert testimony, the trial judge may consider many pertinent

factors, including age, job skills, education, training, duration of disability and job opportunities for the disabled, in addition to anatomical impairment, for the purpose of evaluating the extent of a claimant's permanent disability. Tenn. Code Ann. section 50-6-241(a)(2). The evidence fails to preponderate against the chancellor's finding that the claimant will retain a permanent partial disability of twenty-eight percent to both arms.

The judgment of the trial court is affirmed and the case remanded to Chancery Court for Davidson County. Costs are taxed to the parties, one-half each.

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Joe C. Loser, Jr., Special Judge

CONCUR:

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Lyle Reid, Associate Justice

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William S. Russell, Senior Judge

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

<p><b>FILED</b></p> <p>December 2, 1997</p> <p>Cecil W. Crowson Appellate Court Clerk</p>
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<p>IRENE G. VANCE,</p> <p style="padding-left: 40px;"><i>Plaintiff/Appellee</i></p> <p>vs.</p> <p>PRINTING INDUSTRY ASSOC. OF THE SOUTH,</p> <p style="padding-left: 40px;"><i>Defendant/Appellant</i></p>	<p>} } } } } } } }</p>	<p>DAVIDSON CHANCERY No. 95-3371-<del>II</del> Below</p> <p>Hon. Carol McCoy, Chancellor</p> <p>No. 01S01-9703-CH-00067</p> <p>AFFIRMED AND REMANDED.</p>
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JUDGMENT ORDER

*This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.*

*Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and*

*It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.*

*Costs will be paid one-half by each party, for which execution may issue if necessary.*

*IT IS SO ORDERED on December 2, 1997..*

PER CURIAM