

Defendants argue Wade Christensen's medical records "are detailed" and should have noted Claimant's alleged pain if it truly existed following the September 2001 surgery. Overall, Defendants argue the record does not support Claimant's assertion of ongoing pain after the September 2001 surgery.

Because of Claimant's long-term relationship with Wade Christensen, the Commission placed greater weight on his records and documentation. Christensen verbally stated that Claimant complained of right shoulder pain, but did not document any of this important detail in his notes until after the furniture moving incident. It is also important to note, again, that Christensen saw Claimant numerous times following the September 2001 surgery for ailments as varied as ear infections, left foot pain, phlegm, anxiety, obesity, post-nasal drainage, and depression. Further, during 2002, Claimant saw Christensen numerous times without chart notes reflecting shoulder pain. See: Finding of Fact No. 21. It was not, however, until September 2003 after the furniture moving incident of December 2002 that Christensen began to note Claimant's shoulder pain and heavily prescribe pain medication, as documented in his chart notes.

2. Rotator Tear

Claimant further argues the Commission improperly made an issue of the absence of a rotator cuff tear on the first MRI in August 2001. A second MRI in October 2003 showed the rotator cuff tear. The only significant event occurring between these two dates is the furniture moving incident. Moreover, the record reflects substantial healing of the right shoulder following surgery in September 2001.

3. Moving Incident

Claimant also contends the Defendants do not contradict Dr. Huntsman's statement that the moving incident did not cause the tear. The Commission found more persuasive the medical records that indicated a definite decline of progress in the right shoulder after the moving incident. Therefore, the Commission discounted statements by Claimant, his family and Dr. Huntsman that the furniture moving incident was insignificant.

CONCLUSIONS

The record simply does not support the verbal statements of Wade Christensen of ongoing and continuous pain in Claimant's right shoulder for over 20 months prior to September 2003. The arguments by Claimant were thoroughly reviewed and addressed in the Commission decision of April 7, 2005. The Commission has also fully considered the "humane and liberal construction" policy in its decision of April 7, 2005. The record fully supports the factual findings and legal conclusions made by the Commission.

Based upon the foregoing reasons, Claimant's motion for reconsideration should be, and is hereby, DENIED.

DATED this 6th day of July 2005.

INDUSTRIAL COMMISSION

/s/ _____
Thomas E. Limbaugh, Chairman

/s/ _____
James F. Kile, Commissioner

R. D. Maynard, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on this ___6th day of _____July_____2005, a true and correct copy of the foregoing **ORDER DENYING RECONSIDERATION** was served by regular United States Mail upon each of the following:

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