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RICHMOND, VIRGINIA

IN THE

SUPREME COURT OF VIRGINIA

AT RICHMOND

VIRGINIA ELECTRIC AND POWER COMPANY, SELF INSURED,	)	
Appellant,	)	
v.	)	RECORD NO. 810034
SARAH L. COGBILL,	)	CLAIM NO. 665-734
Appellee.	)	

APPENDIX

APPENDIX

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INDUSTRIAL COMMISSION OF VIRGINIA
P. O. Box 1794
Richmond, Virginia 23214

APPLICATION FOR HEARING

File No. _____

Employee SARAH L. COGRILL 7307 STONEMAN AVE. RICHMOND, VA. 3222[illegible]
(Address)

Employer VEPCO RICHMOND, VA.
(Address)

Date of Accident APRIL 19, 19 70 Average Weekly Wage $ [illegible]

Place Where Accident Occurred HENRICO COUNTY, VA
(City or County) (State)

Nature of Injury or Occupational Disease: STRAINED BACK WHILE WORKING IN SITTING POSITION LEANING FORWARD ON HARD-BACKED, HARD-SEAT CHAIR FOR 4½ HRS.

Date Disability Began: APRIL 24, 19 70

Date of Return to Work: _____, 19____, and wag then earned $_____

The applicant requests a hearing before the Industrial Commission of Virginia on the grounds of:

(1) Accidental Injury ..... (X)

(2) Occupational Disease ..... ( )

(3) Death on _____, 19____, due to Accidental Injury ..... ( )

COPY OF APPLICATION MUST BE SENT TO OTHER PARTY (SO INDICATE BY A CHECK) [X] YES

Signature of Applicant: Sarah L. Cogrill

Address: 7307 STONEMAN AVE
RICHMOND, VA. 23225
[illegible]

Signed this 5TH day of MAY, 19 70

Subpoenas for witnesses will be issued by the Industrial Commission on request or may be obtained at the Clerk's Office of the City or County where the hearing will be held (§65.1-21, Code of Va.). Medical reports are acceptable in lieu of physicians' personal appearances.

NOTE - CLAIMANT'S COUNSEL IS JAY J. [illegible]
IMPERIAL BLDG., THIRD FLOOR, [illegible]
FRANKLIN ST., RICHMOND, VA. [illegible]
THUS FAR, CLAIMANT HAS BEEN TREATED BY DR. RUFFIN (CO. DOCTOR) AND DR. WILLIAM JOHNSON (VA. ORTH ASSOC. ON GROVE AVE.).

IN THE INDUSTRIAL COMMISSION OF VIRGINIA

SARAH L. COGBILL, Claimant

DEC - 8 1980

v. Claim No. 665-734

Opinion by MILLER
Commissioner

VIRGINIA ELECTRIC & POWER COMPANY, Employer
Self-Insured

Jay J. Levit, p.q.
Imperial Building, 3rd Floor
5th and Franklin Streets
Richmond, Virginia 23219

Gregory B. Robertson, p.d.
P. O. Box 1535
Richmond,Virginia 23212

REVIEW before the Full Commission in Richmond, Virginia on December 2, 1980.

This case comes on the defendant's review application to the October 15, 1980 decision holding that the injury resulted from an established "accident".

The facts are set forth below and show that the claimant (who had previous back problems) worked some 3-1/2 to 4 hours without interruption in the back of a truck seated in a straight chair from which she bent forward recording auction sale data on a clipboard. She noted onset of low back pain during this session. Significantly, both reporting physicians affirmed that the diagnosed back strain was due to such prolonged sitting.

This is somewhat distinquishable from Bevins v. N.N. S. & D.D. Co., 54 OIC 13 situation wherein the chair involved was a cushioned office chair in an office setting. Moreover, in that case the specialist opined that chiropractic manipulation "most likely" caused the rupturing of the disc. Reference is further made to broader definition of "accident" as in the case of Reserve Life Ins. Co. v. Hosey, 208 Va. 568.

Accordingly, the said October 15, 1980 Opinion and award is AFFIRMED with modification that the fee for counsel for claimant is set at $300.00.

VIRGINIA:
IN THE INDUSTRIAL COMMISSION

SARAH L. COGBILL, Claimant

OCT 15 1980

v. Claim No. 665-734

Opinion by JOYNER, Chairman

VIRGINIA ELECTRIC & POWER COMPANY, Employer
SELF INSURED

J. J. Levit, Esquire
Imperial Building, 3rd Floor
Fifth & Franklin Streets
RICHMOND, Virginia 23219
for the Claimant.

Gregory Robertson, Esquire
707 E. Main Street
Richmond, Virginia 23219
for the Defendants.

Hearing before Commissioner JOYNER at Richmond, Virginia, on October 6, 1980.

This claim is before the Commission upon the application of the employee filed May 5, 1980, alleging back injury by accident on April 19, 1980.

The claim is defended upon the ground that the claimed disability from April 23 through June 2, 1980, is not the result of injury arising out of and in the course of this employment.

The evidence establishes that the claimant's regular employment is that of an operations clerk, which apparently involves working in a seated position at a desk. The record also establishes that the claimant has suffered from back complaints over a period of several years and that she utilized one hundred eleven [111] sick days from 1969 through June 16, 1975, a portion of which, although the exact number is not known, was the result of back complaints and, in addition, was absent a total of twenty days from October, 1977, to March 7, 1978, all as the result of back complaints resulting from a fall in the claimant's bathroom. However, after returning to work in March of 1978, following this incident, the claimant lost no further time nor received medical treatment until April 23, 1980.

The claimant testified that she volunteered to work on Saturday, April 19, 1980, at a public auction of her employer's surplus motor vehicles. Her work, and that of a co-worker, involved sitting in a straightback chair and recording on a clipboard the numerical identification of the bidder and the amount of the successful bid on each item being auctioned. This work was performed from ten o'clock a.m. until approximately one-thirty or two o'clock p.m. without interruption. It was during this period of time that the claimant noted the onset of low back pain which she attributed to working in a bent position, which was not her custom, while recording the various items of information on a clipboard resting on her lap. The back pain apparently increased during the weekend and the claimant reported the incident to her supervisor the following Monday, April 21, 1980. The claimant worked a full shift on

Monday, Tuesday and Wednesday, April 21, 22 and 23, 1980, and first sought medical attention because of increasing discomfort on Thursday, April 24, 1980, according to her testimony, and on April 25, 1980, according to the Attending Physician's Report of Dr. Herbert G. Ruffin. Whatever the date of the initial medical treatment, Dr. Ruffin recorded a history of injury "was sitting on the back of a truck at an auction and felt some discomfort in back" and diagnosed muscle spasm in low back which he causally related to this incident and noted disability commencing April 24, 1980, and referral to Dr. William T. Johnstone, Orthopedic Surgeon. Dr. Johnstone undertook treatment of the claimant commencing May 2, 1980, at which time he recorded the same history of injury by accident, diagnosed lumbar strain which was causally related to this incident and indicated continuing disability. By narrative report dated May 2, 1980, Dr. Johnstone reported a lumbar strain and the possibility of a disc rupture. The claimant, apparently on medical advice, returned to her regular employment on June 2, 1980, and has worked without interruption since that time.

Upon this evidence we find that the claimant suffered injury by industrial accident which resulted in her disability from April 23, through June 2, 1980, while employed at an average weekly wage of $216.00.

A W A R D

An award is entered in favor of the claimant at the rate of $144.00 per week for temporary total disability for the period of April 23, 1980, through June 2, 1980, at which time this award is terminated.

The employer shall pay or cause to be paid the cost of all reasonable and necessary medical treatment rendered the claimant in this regard.

From compensation there shall be deducted and paid to Jay J. Levit an attorney's fee of $250.00 for legal assistance rendered the claimant herein.

ASSIGNMENT OF ERROR

The Industrial Commission of Virginia erred in holding that the Claimant suffered an injury by accident as required by Section 65.1-7 of the Code of Virginia, as amended.

SARAH L. COGBILL, Claimant

BY MR. LEVIT:

Q. State your full name, please?

A. Sarah L. Cogbill.

Q. By whom are you employed?

A. Virginia Electric and Power Company.

Q. How long have you been employed there?

A. 19 years.

Q. Could you tell us what you were doing on or about April 19 in your employment?

A. I was working at an auction. I was sitting in back of a truck in a hard-back chair.

Q. It was an auction, did you say?

A. It was an auction, yes.

Q. What is your normal employment with Vepco?

A. Operations Clerk.

Q. As an Operations Clerk, where do you normally work?

A. 7500 West Broad.

Q. And, do you normally have a sit-down type of job?

A. Sometimes, most of the time I move around when I want to.

COMMISSIONER JOYNER:

Isn't it a question of whether working these auctions is a part of her regular job?

MR. LEVIT:

That is what I am getting into.

Q. In other words, what I am trying to find out is that when you were working at the auction on April 19, had you ever done anything like that before in your employment?

A. No.

Q. Was this a special type of arrangement for that day that you were asked to engage in?

A. Yes.

Q. And, now, tell us exactly what you were doing on that day? What were your duties?

A. Taking bids. Cars and trucks that was being auctioned off.

Q. You say, you were sitting on back of the truck?

A. Yes.

Q. Describe the type of chair in which you were sitting?

A. It was a hard-back chair.

Q. Do you normally sit in a hard-back chair when you work?

A. No.

Q. What kind of chair do you sit in at work, normally?

A. I have a cushioned chair.

Q. And, were you required to sit there, or did you move around during this auction?

A. I sat there from 10 o'clock until 1:30 or 2:00 P.M.

Q. And, when you sat there, exactly what were you doing?

A. Writing down bids.

Q. Did you have a desk in front of you?

A. No, I was writing in my lap.

Q. You had to write in your lap?

A. Yes.

Q. You had to lean forward?

A. Yes.

Q. Thereafter, did you notice anything?

A. Yes, I noticed on Saturday night that my back started bothering me and it kept getting worse; and, so on Thursday, I called my boss and told him I could not make it in, I was going to see if it would get all right. And, he called me and told me to go to the Company doctor because he thought it was Company related.

Q. Did you do so?

A. Yes, he came out and carried me to Dr. Ruffin on Thursday afternoon.

Q. Prior to that time, have you had any back problems?

A. No.

Q. This was the first time you had back problems?

A. Well, I had some 10 or 15 years ago, a pinched nerve.

Q. Prior to that time, but aside from that, that was it?

A. That was it.

Q. Did you return to work, when? How long were you out of work?

A. I was out of work from April 23 until I went back on June 2.

Q. Is your back all right, now?

A. No, it still bothers me.

You can answer any questions for Mr. Robertson.

MR. ROBERTSON:

Q. Ms. Cogbill, on the day that you went to the auction, you volunteered for the job, didn't you?

A. Well, Mr. Eaves asked me if I would do it and I said, I would.

Q. He did not require that you do it, did he?

A. No.

Q. He paid you overtime for it?

A. Right.

Q. Since you have been working for Vepco and you say it's 19 years?

A. Yes.

Q. What year were you employed?

A. I was employed, the first time, in 1962; and, I left for a month and came back in 1966.

Q. Have you been absent from work for sickness during that period at all?

A. Oh, yes!

Q. A lot?

A. Yes, I would say a lot.

Q. Any of that related to any back problems that you have?

A. Yes, when I--oh, about 10 years ago.

Q. When was the first time you remember having back problems?

A. I guess, about 10 or 12 years ago.

Q. About 1968? Is that right?

A. Yes, I guess so because I was at Castlewood Road then.

Q. And, when you were at Castlewood Road you had sprained muscles and spasm in your lower back, didn't you?

A. Right.

Q. And, how did you get that?

A. I don't know.

Q. You just had it?

A. (No audible answer.)

Q. Two years later, you had another back problem, didn't you?

A. I could have, I don't remember.

MR. ROBERTSON:

Q. You don't remember slipping and falling in your bath tub and hurting your back?

A. I didn't fall in no bath tub, I fell on the bathroom floor.

Q. And, you hurt your back?

A. Yes.

Q. And, you remember that?

A. (No audible answer.)

Q. Tell us about that a little bit?

A. Well, I was washing down a wall and I fell off a stool and hurt my sacroiliac.

Q. You have a pinched nerve in your back?

A. I had that 10 years ago.

Q. Is that a continuing problem you have?--a pinched nerve?

A. No, I have not had any trouble with the pinched nerve.

Q. Now, since that time, I believe, you have been reprimanded, have you not, from Vepco for taking a substantial amount of sick leave?

A. Yes.

Q. On, at least, two occasions, right?

A. No, I have never been reprimanded, but for one time.

Q. Have you received any other warnings for taking extensive sick leave?

A. No.

Q. First, let me ask if you can identify that (indicating) as your signature?

MR. LEVIT:

I would like to see it before she identifies it.

COMMISSIONER JOYNER:

(No audible answer.)

Q. Can you identify whether or not that is your signature?

A. Yes.

Q. And, that document reflects that you have received 111 sick leave days since 1969, is that correct?

A. Right.

Q. What date is that document?

A. 6/23/75.

MR. LEVIT:

I would like to inquire, Mr. Commissioner, what the relevancy of the document dated 1975 is to this hearing. I object to it on the grounds of irrelevancy.

COMMISSIONER JOYNER:

Alright.

MR. ROBERTSON:

I think that it is relevant in two respects; one, the lady has just testified that she was only given a reprimand once by taking extensive sick leave; and, what I want to do once I set the foundation is ask her what she took the sick leave for. Given a substantial history on back problems dating back to 1968, I think it is, indeed, relevant.

COMMISSIONER JOYNER:

I'll let it in for the time being, Mr. Robertson.

MR. ROBERTSON:

I will introduce this as Company Exhibit #1.

COMMISSIONER JOYNER:

Alright.

MR. LEVIT:

I would, just for the record, note my objection that it is not relevant.

COMMISSIONER JOYNER:

Let the record, so show it.

Q. Ms. Cogbill, you just testified that you had only received one written warning, would you identify that document, please?

A. You said reprimand; there is four different things up here.

Q. Is that your signature?

A. Yes, it is.

Q. And, what is the document?

MR. LEVIT:

Mr. Robertson, I think I am entitled to see all documents that you present to my client, before you question her on it.

MR. ROBERTSON:

Sure.

[off the record]

MR. LEVIT:

I will state objection as to relevancy as being March, 1978 and talks about the number of days of sick leave, I don't see the relevancy.

COMMISSIONER JOYNER:

Alright, I'll over rule the objection, Mr. Levit, subject to being linked up to

COMMISSIONER JOYNER: (continued)

Mr. Robertson's questioning.

MR. ROBERTSON:

Q. That document reflects that you have taken, in fact, 20 sick leave days since October, 1977, does it not?

A. Right.

Q. And, that document is dated March, 1978?

A. Yes.

Q. And, that is your signature?

A. Yes.

Q. This is the second time that you had received some sort of written warning about sick leave, is that correct?

A. Yes.

MR. ROBERTSON:

I'd like to point out, I think that the record will reflect that I asked her two questions; one, written reprimands; and, two, any kind of written warnings or counseling.

MR. ROBERTSON:

Q. Now, Ms. Cogbill, the first document we talked about reflected 111 sick leave days over a 6-year period, how much of that was for your back?

A. I don't think very little of it was for my back, because I have had numerous eye operations and I think that most of it went for that.

Q. Well, some of it went for your pinched nerve, didn't it?

A. Well, I'm sure it did.

Q. Now, the 20 days you took in October, how much of it, October, 1977 to March, 1978, the second time we're talking about how much of that was for your back?

A. I guess most of it went for my back when I hurt my sacroiliac, when I fell.

Q. Now, this truck that you were sitting on, it was just a flat-bed sort of station wagon type thing, wasn't it?

A. Right.

Q. And, when you were writing, you were sitting sort of like you are now with a board on your lap?

A. Yes, over like this (indicating).

Q. Were you constantly writing?

A. Yes.

Q. Well, now, during the time that somebody was actually making bids, what were you doing during that period?

A. I was still sitting here waiting for them to bid on it, so I could get the price down.

Q. What did you have to write down?

A. I had to write down truck numbers, or vehicle numbers and the amount of the auction.

Q. In fact, you had to write down the number of the vehicle one through 125, wasn't it?

A. Yes.

Q. Okay; and, you had to write down the number of the bidder, isn't that right ?

A. Yes.

Q. And, that would have been one through 200?

A. I guess so.

Q. And, you had to write down the price?

A. Right.

Q. Now, who else was standing in the truck with you?

A. Mr. Brown was in the truck with me.

Q. Anybody else?

A. And, some other lady that worked for the auctioneer.

Q. And, if you did not hear what the bid was, Mr. Brown would tell you what it was, wouldn't he?--or the auctioneer would tell you, one of the two?

A. Normally, if I didn't hear it, I would ask the girl.

Q. But, you didn't have to strain to find out what the information was, did you?

A. No.

Q. Now, you said you started at 10:00 A.M. and worked until about 2:30 P.M.?

A. Around 1:30 or 2:00 P.M.

Q. Isn't it a fact that the auction did not start until 11:00 A.M.?

A. Well, I was in the truck at 10:00 or 10:15 whatever.

Q. You are sure'.--think about that now?

A. Maybe, it was 10:30 or quarter til 11:00. I don't know the exact time when it started.

Q. Now, when you are at work, in your usual duties, you spend quite a bit of time sitting, don't you?

A. No.

Q. You don't?

A. I'm suppose to, but I don't, I get up and move around.

Q. Well, in this instance, when you were working at the auction you had a clipboard?

A. Right.

Q. Why didn't you stand up and write?

A. I couldn't stand up and write.

Q. Did anybody tell you not to?

A. No.

Q. And, with a clipboard in your hand, all you had to do was to write down numbers and there was not any reason why you could not have done that, was there?

A. I guess not.

I think that is all, I have no further questions.

BY COMMISSIONER JOYNER:

Q. Ms. Cogbill, how long has it been since you last received any medical treatment for your back?

A. In 1978.

Q. What doctor saw you then?

A. Dr. Johnston, I believe.

Q. Do you remember when, in 1978, it was?

A. It was in March, 1978, if I'm not mistaken.

Q. Had you lost any time from work because of your back since March, 1978?--down to April, 1980?

A. No.

Q. And, no medical treatment during that period of about two years?

A. No.

Q. During this period of approximately four hours that the auction was taking place, was there anyone else doing the same work you were doing?

A. Yes, the other girl was doing the same work.

Q. You are checking each other in effect?

A. Right.

Q. Was there any breaks during this period of time, did you have any relief?

A. No.

Q. April 19 was on what day of the week, do you recall?

A. It was on a Saturday.

Q. On Saturday. It was the same night that you began to have some problems with your back?

A. Right.

Q. And, when did you first get medical treatment?

A. I got medical treatment on Thursday.

Q. Did you work Monday through Thursday?

A. I worked Monday, Tuesday and Wednesday. But I also had a heating pad at work with me.

Q. Then you were out from Thursday, it would have been the 23rd until June 2 ?

A. Right.

Q. Were you paid anything during that period of time?

A. I was paid up until either the 21st or 22nd of May.

Q. Was that charged to your sick leave?

A. Yes.

Q. Has any other doctor seen you other than Dr. Johnston?

A. Dr. Ruffin saw me first.

Q. Alright, yes. He saw you once on April 25th. Did Dr. Johnston see you more than one time?

A. Yes, I went to him every week for about a month.

Q. Did you see him after you went back to work?

A. Yes.

COMMISSIONER JOYNER:

Alright, Mr. Robertson, anything else?

MR. ROBERTSON:

I have one or two more questions.

COMMISSIONER JOYNER:

Alright.

MR. ROBERTSON:

Q. Ms. Cogbill, you said you worked Monday, Tuesday and Wednesday after the auction, is that right?

A. Right.

Q. Thursday, you did not come into work, did you?

A. No.

Q. Did your supervisor call you that day?

A. I called my supervisor and told him that I would not be in that my back was bothering me. He called me back and told me that he thought it was job-related and he wanted to come out and take me to a Company doctor; and, I agreed to it. He carried me to Dr. Ruffin on Hilliard Road.

Q. Did he ask you whether it was job-related?

A. I told him that it came from when I worked in the auction Saturday sitting in the hard-back chair for 3-1/2 or 4 hours, whatever.

Q. But, when you were talking to your supervisor on the telephone, you told him that you didn't want to go to the doctor, but you would rather go on sick leave, isn't that what you told me?

A. Yes, when I called him up, I told him I was going to take Thursday and Friday off to see if my back would get better. He, in turn, called me back and said he thought it was job-related.

Q. Well, I'm not sure we are getting the chronology straight. On that Thursday, you told him that you wanted to take sick leave for Thursday and Friday?

A. Right.

Q. Now, on Friday, isn't it a fact that you talked to your Union President?

A. Yes, I did.

Q. And, isn't he the one that told you to call Mr. Duke, your supervisor, and tell him that it was work-related? --isn't that the way it happened?

A. No, Mr. Duke called me on Thursday afternoon.

Q. Why did you call your Union President?

A. I wanted to get his advise as to whether I should go to a Company doctor or just take sick leave. And, he advised me that if it was Company related to do as my supervisor said to do.

[comments, off the record]

Q. Ms. Cogbill, when you were sitting in the chair you didn't fall off the chair, did you?

A. No.

Q. You didn't fall off the truck, did you?

A. No.

Q. The only thing that you did was sit in the chair, is that right?

A. Right.

That is all.

MR. LEVIT:

Q. You were leaning forward, is that right?

A. Right.

I have no further questions.

BY COMMISSIONER JOYNER:

Q. Ms.Cogbill, when did you first notice that your back was bothering you?

A. I noticed my back bothering me while I was at the auction.

Q. When your back started bothering you, why didn't you work in some different position, such as standing up?

A. I tried to shift from one side to the other and tried to lean back too, though, but it didn't ease up any.

Q. Weren't you able to stand up and work?

A. I probably could have.

Q. Any reason that you didn't?

A. Well, that day the wind was blowing real bad and I was trying to hold my papers on my clipboard and I had papers in this hand (indicating) and my clipboard in this hand (indicating) and it was just-- I guess I could have done it.

Q. Did you say anything to anyone at the auction at that time about your back bothering you?

A. No.

Q. When did you first mention this to anyone at Vepco?

A. Oh, I told Mr. Conrad Houston, which is our Administrative Assistant in my Department on Monday that my back was bothering me and that I was almost sure that it came from working at the auction from sitting humped over.

Q. Did you work the full shift from Monday through Wednesday?

A. Yes.

COMMISSIONER JOYNER:

Mr. Robertson.

MR. ROBERTSON:

Mr. Commissioner, I have two very short witnesses, I don't think it will take very long.

COMMISSIONER JOYNER:

Alright.

CARROLL T. EAVES, Witness #1

BY MR. ROBERTSON:

Q. Mr.Eaves, state your name and position, for the record?

A. Carroll T. Eaves, Division Superintendent of General Services.

Q. Were you the supervisor responsible for staging the auction for Vepco?

A. Yes, I was.

Q. Did you see Ms. Cogbill that morning?

A. Yes, I did.

Q. What were the circumstances under which she came to work for you during the auction?

A. She came in, I will assume around 10:00 o'clock, mingled around and got a clipboard and what have you, in a few minutes before the auction everybody got in their right positions.

Q. What time did the auction start?

A. 11:00 o'clock.

Q. What time would she have gotten in the truck?

A. I assume, I don't have the correct time, anywhere from 10 minutes to 11:00 o'clock.

Q. She certainly wasn't in the truck at 10:00 o'clock was she?

A. No.

MR. LEVIT:

I want to object to the answer because he just testified that he didn't know the time and it could have been anywhere from 10:00 to 10 of 11:00. So, I think counsel is leading him and putting words in his mouth . . .

COMMISSIONER JOYNER:

He said that they showed up there around 10:00 and mingled around some.

MR. LEVIT:

But she said he didn't know what time she got in the truck.

BY COMMISSIONER JOYNER:

Q. Do you know what time she got in the truck?

A. Not the correct time, no sir. I would say between 10 minutes of 11:00 and 11:00 o'clock.

COMMISSIONER JOYNER:

Is it all right, Mr. Levit, if we make note of the wait then?

MR. LEVIT:

That's what I wanted pointed out, for the record.

Q. What time did people take their positions for the auction?

A. Just before 11:00 o'clock.

Q. Now, before Saturday, before the day of the auction did you--how did Ms. Cogbill come to be the person that was going to work the auction?

A. The young lady has been--

COMMISSIONER JOYNER:

What is the relevancy, Mr. Robertson.

MR. ROBERTSON:

I think it has some relevancy . . .

COMMISSIONER JOYNER:

She was there being paid to do what she was asked to do.

MR. ROBERTSON:

I think that the relevance may well be that her testimony originally was that I thought she was asked to do this and I thought her testimony was that she was required to do it.

COMMISSIONER JOYNER:

I don't think it's relevant, Mr. Robertson. She was there, whether she volunteered or not. I don't believe it's immaterial, she was there and being paid. The whole question is whether or not the work that she was doing involves this disability.

MR. ROBERTSON:

I think the question is more than that--I think the question is whether or not she had an accident?

COMMISSIONER JOYNER:

--I don't think how she came to be there, is material.

Q. Mr. Eaves, sir. Did you give Ms. Cogbill instructions as to what she should do?

A. Yes, I gave her instructions.

Q. Would you tell us what the instructions were?

A. She was told to take the clipboard and take down the vehicle numbers, bidder numbers and the price of the vehicle as the sale proceeded.

Q. Did you give her any other instructions?

A. No, sir.

Q. Did you tell her she had to sit down?

A. No, sir.

Q. Did you tell her she could not stand up?

A. No, sir.

Q. Did you tell her she could not move around?

A. No, sir.

Q. Have you done these auctions before?

A. Yes, I have.

Q. Do all the auctioneers always sit in their chairs?

COMMISSIONER JOYNER:

The whole question is whether or not this lady's sitting strained her back--the fact that she could have done it some other way is not really material.

DAVID BROWN, Witness #2

BY MR. ROBERTSON:

Q. Mr. Brown, would you state your name and position with Vepco, for the record?

A. David Brown, Staff Assistant in the Transportation Section.

Q. Were you present at the auction which we have been discussing this morning?

A. Yes, I was.

Q. Where were you during the auction?

A. Standing on back of the truck.

MR. ROBERTSON:

Q. Were you on the same truck that Ms. Cogbill was on?

A. Yes, I was.

Q. Do you know what time it was when you got on the truck?

A. Ah, two or three minutes before the sale began.

Q. Do you know what time it was that Ms. Cogbill got on the truck?

A. Approximately, the same time.

Q. Did you stand there the entire period that she was on the truck?

A. Yes, I was.

Q. Did she ever make any complaint to you about her back?

A. No, she did not.

Q. Did she ever make any complaint of any sort that you know of?

A. No, she did not.

Q. While you were standing there, did you instruct her to stay seated?

A. No.

That's all I have.

BY COMMISSIONER JOYNER:

Q. Mr. Brown, what kind of chair was this that Ms. Cogbill was sitting in?

A. I believe it was a hard-back.

Q. Just a straight wooden chair?

A. If I'm not mistaken, I believe it was a chair out of the cafeteria section which is some sort of hard plastic type.

Q. Alright, did it have arms on it?

A. No, I don't believe it did.

Q. It was just a straight-back chair?

A. Yes.

COMMISSIONER JOYNER:

Mr. Levit, do you have any questions?

MR. LEVIT:

I have no questions, thank you.

Witnesses dismissed.

Case concluded.

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CONFIDENTIAL

X 1

VIRGINIA ELECTRIC AND POWER COMPANY

EMPLOYEE RELATIONS INTERVIEW

Date June 16, 1975

Name Mrs. Sarah B. Coley Title Operations Clerk

Department Electric Operating District Central Division Location 7500 W. Broad Street

Date of Birth April 13, 1939 Date Employed October 10, 1966 Time on Present Job ____ Yrs. ____ Mos.

Interview ~~Requested by Employee~~ [X] Commendation [ ] Counseling [ ] Suspension [ ] Reprimand [ ]

Write below in full the results of your discussion with employee, giving all the facts. Use special care in choice of words, being sure they convey exactly what is intended for the record. (Use back of form or additional sheets if more space is required.)

A review of your sick leave reveals you have received one hundred eleven (111) paid sick days since 1969.

We must inform you that you will be ineligible for further sick leave pay after June 13, 1975.

We will review this matter in October, 1975 for consideration of reinstating sick leave credits at that time.

Approvals:

S. P. Edwards

I have read the above and understand it.

Sarah Coley 6-23-75
Employee Date

Immediate Supervisor J. F. Duke Jr.

Title Meter Supervisor

Date 6-23-75

[ ] Original to Personnel Department
[ ] Copy to Local Personnel Folder

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409.22

CONFIDENTIAL

VIRGINIA ELECTRIC AND POWER COMPANY

X2

EMPLOYEE RELATIONS INTERVIEW

Date March 7, 1978

Name Mrs. Sarah L. Cogbill Title Operations Clerk

Department Electric Operating District Central Division Location 7500 W. Broad St.

Date of Birth 4/13/39 Date Employed 10/10/66 Time on Present Job ____ Yrs. ____ Mos.

Interview ~~Requested by Employee~~ [X] Commendation [ ] Counseling [ ] Suspension [ ] Reprimand [ ]

Write below in full the results of your discussion with employee, giving all the facts. Use special care in choice of words, being sure they convey exactly what is intended for the record. (Use back of form or additional sheets if more space is required.)

A review of your sick leave reveals you have received twenty days paid sick leave since your anniversary date in October.

We must inform you that you will be ineligible for further sick leave pay after March 8, 1978.

We will review this matter in October, 1978 for consideration of reinstating sick leave credits at that time.

Approvals:

C. C. Edwards J. W. Kolstad

I have read the above and understand it.

Sarah Cogbill 3/7/78
Employee Date

Immediate Supervisor J. E. Duke Jr.

Title Meter Supervisor

Date MARCH 7, 1978

[ ] Original to Personnel Department
[✓] Copy to Local Personnel Folder

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406.4

00-80-0008

VIRGINIA ELECTRIC AND POWER COMPANY

AUTHORIZATION FOR MEDICAL CARE
(To Be Presented to Physician by Employee)

NAME MRS SARAH COGBILL

CLASSIFICATION OPERATIONS CLERK LOCATION 7000 W. BROAD ST

Dr. H. G. Ruffin :

Please examine and give necessary treatment to this employee, who claims an occupational injury, and check the appropriate block below.

If you release him for selective work only, specify activities to be avoided, such as bending, lifting, climbing, extensive walking, operation of motor vehicle, etc.

Signed J. F. Duke Jr. (Supervisor) Date April 24 19 80

. . . . . .

REPORT OF ATTENDING PHYSICIAN
(To Be Returned to Supervisor by Employee)

RE: Mrs Sarah Cogbill (Name)

This employee may return to:

- ☐ Regular duty on Indefinitely, 19____
- ☐ No duty
- ☐ Selective duty on _____ 19____

Remarks or Special Instructions: May need to see an orthopedic doctor.

Next Appointment _____, 19____ at _____ m.

Signed Herbert G. Ruffin M.D. Date 25 April 19 80

VIRGINIA ORTHOPAEDIC ASSOCIATES, INC.
4315 GROVE AVENUE
RICHMOND, VIRGINIA 23221
AREA CODE 804/353-0401

Sarah Cogbill
Exam; 5/2/80

This employee of Vepco was in for evaluation of her back, claims that the incident occured on the 19th. of April, 1980/ She apparently was sitting in a chair for long periods of time while an aution was being carried out for Vepco. She felt the discomfort in the low back. 10 yrs. ago she was treated by Dr. Watkins for a pinched nerve, claims she has a radiation of pain into both legs, dow to the feet, greater on the left than on the right.. Valsalva has no effect. She saw Dr. Ruffin for Vepco was given Butazolidin which she did not feel was helpful. She denies any female problems, any bowel or bladder changes. PHysical exam; She stands with no list, she has tenderness in the lumbar area. She has a flattened lumbar lordosis on foreward flexion. She brings her fingertips to midcalf level with discomfort. She heel and toe walks with no difficulty. Straight leg raising is negative bilaterally. She does have tenderness to palpation paravertebral muscles in the lumbar area, more on the left than on the right. Her motor power is normal. Sensation-intact. Deep tendon reflexes-normal. I t is my feeling that Mrs. Cogbill has a lumbar strain. She may have disc rupture but at this point I can not support that on physical exam.. We recommended Atarax, Phenaphen #3, heat and rest. We did not recommend that she stay out of work at this time. She is to return to see us in 1 week.

William T. Johnstone, M. D.

WTJ/bes
Cc. Vepco

ART COPY

nd To) Vepco medical Dept. Richmond Va

THE USE OF THIS FORM IS REQUIRED UNDER THE PROVISIONS OF THE WORKMEN'S COMPENSATION ACT.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF WORKMEN'S COMPENSATION
INDUSTRIAL COMMISSION OF VIRGINIA
P. O. Box 1794, Richmond, Virginia 23214

File No. _____

Case of _____

ATTENDING PHYSICIAN'S REPORT

All questions in this blank should be answered, and the report should contain an account of all injuries, no matter how trivial. Fill out blank in ink using pen or typewriter, and mail promptly to the employer or the Claim Office of the insurance carrier.

1. NAME OF INJURED EMPLOYEE (First, middle initial, last): Sarah Cosbill
2. DATE OF INJURY (Mo., day, yr.): 4-19-80
3. EMPLOYEE'S HOME ADDRESS (Number and street, city, state, zip code): 7307 Stoneman Rd. Richmond, Va. 23228
4. DATE OF BIRTH (or age) (Mo., day, yr.): 4-13-39
5. SEX: F
6. NAME OF EMPLOYER: Vepco
7. EMPLOYER'S ADDRESS (Number and street, city, state, zip code).:
8. DATE OF FIRST VISIT (Mo., day, yr.): 5-2-80
9. DATE DISCHARGED (Mo., day, yr.):
10. WHO AUTHORIZED TREATMENT? Self.
11. EMPLOYEE'S ACCOUNT OF HOW INJURY OR EXPOSURE TO OCCUPATIONAL DISEASE OCCURRED: Pt. sitting for long period of time felt discomfort in low back (at auction)
12. FINDINGS UPON EXAMINATION (INCLUDE RESULTS OF X-RAYS, LABORATORY STUDIES, ETC. NOTE PRIOR INJURIES AND PRE-EXISTING CONDITIONS AND ANY REMARKS AND RECOMMENDATIONS ON THE REVERSE OF THIS FORM.): See attached
13. DIAGNOSIS: Lumbar strain
14. IS DIAGNOSED CONDITION DUE TO OCCURRENCE DESCRIBED IN ITEM 11? [X] YES [ ] NO — IF "NO", EXPLAIN ON REVERSE OF THIS FORM
15. NATURE OF TREATMENT: conservative
16. DATES OF YOUR TREATMENT (Mo., day, yr.): 5/2/80
17. WAS EMPLOYEE HOSPITALIZED? [ ] YES [X] NO (If "Yes," give name and address of hospital in item 19)
18. WERE X-RAYS TAKEN? [ ] YES [X] NO (If "Yes," give results in item 12)
19. GIVE (1) NAMES, (2) ADDRESSES, AND (3) DATES OF TREATMENTS PROVIDED BY HOSPITALS OR OTHER DOCTORS FOR THIS INJURY: —
20. WAS THERE DISABILITY FOR WORK? [X] YES [ ] NO (If "Yes," answer 20 A.B.C) →
    A. DATE DISABILITY BEGAN (Mo., day, yr.): 5-2-80
    B. DATE ABLE TO RETURN TO LIGHT WORK (Mo., day, yr.): undetermined
    C. DATE ABLE TO RETURN TO REGULAR WORK (Mo., day, yr.):
21. WILL THERE BE PERMANENT DEFECT OR DISFIGUREMENT? [ ] YES [X] NO (If "Yes," describe nature and extent of same. Estimate loss of function in % terms).
22. NAME OF ATTENDING PHYSICIAN (Type or print): William T. Johnstone, M.D.
23. ADDRESS (Number and street, city, state, zip code): 5855 Broad Rd. Richmond Va
24. I CERTIFY THAT I PERSONALLY EXAMINED AND TREATED THIS PATIENT. SIGNATURE: William Johnstone M.D./B.S. (SIGNATURE OF ATTENDING PHYSICIAN)
25. DATE OF THIS REPORT: 5-6-80

COMPLETE THIS REPORT IMMEDIATELY AFTER SEEING PATIENT FOR THE FIRST TIME.

Form No. 6 5-4-78 400M

I.C. 6/2/80

USE OF THIS FORM IS REQUIRED UNDER THE PROVISIONS OF THE WORKMEN'S COMPENSATION ACT.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF WORKMEN'S COMPENSATION

INDUSTRIAL COMMISSION OF VIRGINIA

P. O. Box 1794, Richmond, Virginia 23214

File No. _____

Case of _____

ATTENDING PHYSICIAN'S REPORT

All questions in this blank should be answered, and the report should contain an account of all injuries, no matter how trivial. Fill out blank in ink using pen or typewriter, and mail promptly to the employer or the Claim Office of the insurance carrier.

1. NAME OF INJURED EMPLOYEE (First, middle initial, last) Mrs. Jerry Cobgill	2. DATE OF INJURY (Mo., day, yr.) 19 April, 1980
3. EMPLOYEE'S HOME ADDRESS (Number and street, city, state, zip code) 7307 Stoneman Road Richmond, Va., 23228	4. DATE OF BIRTH (or age) (Mo., day, yr.) 41 / 5. SEX F
6. NAME OF EMPLOYER VEPCO	7. EMPLOYER'S ADDRESS (Number and street, city, state, zip code). Richmond, Va.
8. DATE OF FIRST VISIT (Mo., day, yr.) 25 April, 1980 / 9. DATE DISCHARGED (Mo., day, yr.) Referred to orthopaedic doctor	10. WHO AUTHORIZED TREATMENT?
11. EMPLOYEE'S ACCOUNT OF HOW INJURY OR EXPOSURE TO OCCUPATIONAL DISEASE OCCURRED Was sitting on the back of a truck at an auction and felt some discomfort in back.	
12. FINDINGS UPON EXAMINATION (INCLUDE RESULTS OF X-RAYS, LABORATORY STUDIES, ETC. NOTE PRIOR INJURIES AND PRE-EXISTING CONDITIONS AND ANY REMARKS AND RECOMMENDATIONS ON THE REVERSE OF THIS FORM.) Muscle spasm in low back. Unable to bend. (Injury of sciatic nerve)	
13. DIAGNOSIS Muscle spasm in low back	14. IS DIAGNOSED CONDITION DUE TO OCCURRENCE DESCRIBED IN ITEM 11? ☒ YES ☐ NO — IF 'NO', EXPLAIN ON REVERSE OF THIS FORM
15. NATURE OF TREATMENT Tabs Metaxolidine and referred to orthopaedic doctor.	16. DATES OF YOUR TREATMENT (Mo., day, yr.) 25 April, 1980
17. WAS EMPLOYEE HOSPITALIZED? ☐ YES ☒ NO (If "Yes," give name and address of hospital in item 19)	18. WERE X-RAYS TAKEN? ☐ YES ☒ NO (If "Yes," give results in item 12)
19. GIVE (1) NAMES, (2) ADDRESSES, AND (3) DATES OF TREATMENTS PROVIDED BY HOSPITALS OR OTHER DOCTORS FOR THIS INJURY	
20. WAS THERE DISABILITY FOR WORK? ☒ YES ☐ NO (If "Yes," answer 20-A.B.C)	A. DATE DISABILITY BEGAN (Mo., day, yr.) 24 April, 1 80 / B. DATE ABLE TO RETURN TO LIGHT WORK (Mo., day, yr.) Referred on 28 / C. DATE ABLE TO RETURN TO TO REGULAR WORK (Mo. day, yr.) April, 1980
21. WILL THERE BE PERMANENT DEFECT OR DISFIGUREMENT? ☐ YES ☒ NO (If "Yes," describe nature and extent of same. Estimate loss of function in % terms).	
22. NAME OF ATTENDING PHYSICIAN (Type or print) Herbert V. Duffin, M. D.	23. ADDRESS (Number and street, city, state, zip code) 2508 Hilliard Rd., Richmond, Va. 23228
24. I CERTIFY THAT I PERSONALLY EXAMINED AND TREATED THIS PATIENT. SIGNATURE Herbert V. Duffin M. D. (SIGNATURE OF ATTENDING PHYSICIAN)	25. DATE OF THIS REPORT 17 May, 1980

COMPLETE THIS REPORT IMMEDIATELY AFTER SEEING PATIENT FOR THE FIRST TIME.

Form No. 6—5-4-78—400M

I.C. 6/2/80

NOTED MAY 19 1980 J.F.S., JR.

VIRGINIA ORTHOPAEDIC ASSOCIATES, INC.
4315 Grove Ave., Richmond, Va. 23221
McGuire Clinic Building
7702 Parham Rd., Richmond, Va. 23229
St. Mary's Medical Building
5855 Bremo Rd., Richmond, Va. 23226
Phone 353-9401

BEVERLEY B. CLARY, M. D. DEA AC4540200
EARNEST B. CARPENTER, M. D. DEA AC4540197
JAMES B. DALTON, JR., M. D. DEA AD4540185
FRANKLIN P. WATKINS, M. D. DEA AW4540173
ERNEST L. CLEMENTS, JR., M. D. DEA AC4540161
WILLIAM T. JOHNSTONE, M. D. DEA AJ4540159
DONALD G. SEITZ, M. D. DEA AS5804821
DONALD D. DAVIDSON, M. D. DEA AD7752769

Name Sarah Coyle Date 19 May 80

Address

℞ Her body has a hard skin and possibly her respiration. Since she is only one & may be able to return to work in 1-2 weeks

LABEL AS TO CONTENTS

REFILL 0 – 1 – 2 – 3 PRN

Shelley Johnson M. D. M. D.

Voluntary Formulary Permitted Dispense as Written