

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**WCC NO. H207687**

SCOTT JACKMAN, Employee	CLAIMANT
GNC HOLDINGS, Employer	RESPONDENT
SENTRY INS., Carrier	RESPONDENT

**OPINION FILED AUGUST 29, 2023**

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant unrepresented and appearing PRO SE.

Respondents represented by JARROD S. PARRISH, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

On June 8, 2023, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on April 17, 2023, and a Pre-hearing Order was filed on April 18, 2023. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The relationship of employee-employer-carrier existed between the parties on October 17, 2022.
3. The respondents have controverted the claim in its entirety.

4. The claimant was earning sufficient wages to entitle him to compensation at the weekly rates of \$600.00 for temporary total disability benefits and \$450.00 for permanent partial disability benefits.

By agreement of the parties the issues to litigate are limited to the following:

1. Whether Claimant sustained a compensable injury to his back on or about October 17, 2022.

2. Whether Claimant is entitled to temporary total disability benefits from October 18, 2022, to March 6, 2023.

Claimant's contentions are:

"I was denied for the claim I submitted and I was hurt while working."

Respondents' contentions are:

"Respondents have not been presented with evidence establishing a compensable injury to any part of Claimant's back."

The claimant in this matter is a 45-year-old male who alleges to have sustained a compensable injury to his back on or about October 17, 2022. The claimant gave the following testimony about his alleged injury on direct examination:

MR. JACKMAN: So on October 17<sup>th</sup>, I was at work. I reached up over our cash wrap wall to grab something for a customer, a Vitapak, and when I did, I twisted and went to grab it. When I did, I felt a sharp pain in my back, my middle back. It hurt really bad, kind of made me hunch over. The rest of the day I was feeling awful from it.

That night I went home. I had a hard time sleeping. Called my district manager in the morning and told him what had happened. I told him that I was going to my doctor. I went to my doctor and my doctor had taken me out of work. He told me to come back and see him within I think it was three days. He made an appointment for

me to go back. I went back. It was still hurting. He did some x-rays and looked at my back and said I had –

MR. PARRISH: Your Honor, I am going to object to hearsay.

THE COURT: You can't tell us what the doctor said.

MR. JACKMAN: Okay.

THE COURT: You can tell us what the doctor did, what you experienced, but you can't tell us what the doctor said.

MR. JACKMAN: Okay. Can I say the doctor diagnosed me?

THE COURT: I will allow you to tell me what you say the doctor diagnosed you with.

MR. JACKMAN: The doctor diagnosed me with a slipped disc, bulging disk, and he referred me that I could not go back to work until I completed the physical therapy.

MR. PARRISH: And Your Honor, I object to that as hearsay for the record as well.

THE COURT: Thank you. Go ahead.

MR. JACKMAN: So he said that I couldn't go back to work until I did physical therapy. He scheduled me for physical therapy. I waited about two and a half weeks before I was finally able to get into physical therapy. I went through physical therapy for about 12 weeks.

Upon completion, I went back to my doctor. He evaluated everything from the physical therapist, asked me how I was doing, and allowed me to come back to work. And that was on the 21<sup>st</sup>.

Then I called my district manager and I kept him in the loop the whole time of what was going on. Then I called him on the 21<sup>st</sup> and let him know that I was now released. Sent him the work release and he said he would get me back to work as soon as possible. He had me start back on March 6<sup>th</sup>.

In order to prove a compensable injury as the result of a specific incident that is identifiable by time and place of occurrence, a claimant must establish by a preponderance of the

evidence: (1) an injury arising out of and in the course of employment; (2) the injury caused internal or external harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings establishing an injury; and (4) the injury was caused by a specific incident identifiable by time and place of occurrence. *Odd Jobs and More v. Reid*, 2011 Ark. App. 450, 384 S.W. 3d 630.

The claimant must prove the existence of objective medical findings regarding his alleged back injury. The claimant submitted five pages of documentary evidence, all of which were admitted into the record. The respondents submitted six pages of medical records and 10 pages of non-medical records, all of which were submitted into the record. Upon review of all the evidence submitted, including testimony of the claimant, I find no objective medical evidence to support the claimant's allegation of a compensable back injury on or about October 17, 2022. After a review of the medical evidence, it is clear the claimant was taken off work for a period of time; however, objective medical evidence of a back injury on about October 17, 2022, or any other date, simply does not exist inside the record in this matter. As such, the claimant has failed to prove by a preponderance of the evidence that he sustained a compensable back injury on or about October 17, 2022.

The claimant has also asked the Commission to consider whether he is entitled to temporary total disability benefits from October 18, 2022, to March 6, 2023. The claimant has not been able to prove by a preponderance of the evidence the existence of a compensable back injury as he has alleged. As such, he is unable to prove entitlement to temporary total disability benefits for that alleged injury.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of

the witness and to observe his demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

**FINDINGS OF FACT & CONCLUSIONS OF LAW**

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on April 17, 2023, and contained in a Pre-hearing Order filed April 18, 2023, are hereby accepted as fact.

2. The claimant has failed to prove by a preponderance of the evidence that he sustained a compensable injury to his back on or about October 17, 2022.

3. The claimant has failed to prove by a preponderance of the evidence that he is entitled to temporary total disability benefits from October 18, 2022, to March 6, 2023.

**ORDER**

Pursuant to the above findings and conclusions, I have no alternative but to deny this claim in its entirety.

If they have not already done so, the respondents are directed to pay the court reporter, Veronica Lane, fees and expenses within thirty (30) days of receipt of the invoice.

**IT IS SO ORDERED.**

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**HONORABLE ERIC PAUL WELLS  
ADMINISTRATIVE LAW JUDGE**