

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H406391

JULRUTHIA MCINTOSH, EMPLOYEE

CLAIMANT

FULL-SERVICE HOSPITALITY, LLC,
EMPLOYER

RESPONDENT

TECHNOLOGY INSURANCE CO./ AMTRUST
NORTH AMERICA, INSURANCE CARRIER
THIRD PARY ADMINSTRATOR (TPA)

RESPONDENT

OPINION FILED MAY 27, 2026

Hearing held before Administrative Law Judge Chandra L. Black, in Hot Springs, Garland County, Arkansas.

Claimant appeared pro se/unrepresented.

Respondents represented by the Honorable William C. Frye, Attorney at Law, North Little Rock, Arkansas.

STATEMENT OF THE CASE

On February 27, 2026, the above-captioned claim came on for a hearing in Hot Springs, Arkansas. Previously, a pre-hearing telephone conference was held on this matter on November 19, 2025. A Pre-hearing Order was entered that same day pursuant to this telephone conference. Said order was admitted into evidence along with the parties' pre-hearing information filings without objection as Commission's Exhibit 1.

Stipulations

During the pre-hearing telephone conference, and/or at the hearing, the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.

2. That the employee-employer-insurance carrier relationship existed among the parties at all relevant times, including on or about the alleged injury date which is September 13, 2024.
3. That the Claimant earned an average weekly wage of \$808.21, which would entitle her to a weekly temporary total disability rate of \$539.00, and a permanent partial disability rate of \$404.00 per week.
4. The Respondents have controverted this claim in its entirety.
5. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

Issues

By agreement of the parties, the issues to be litigated at the hearing were as follows:

1. Whether the Claimant sustained a compensable work-related injury to her left arm/shoulder on September 13, 2024, in the form of a rotator cuff tear.
2. Whether the Claimant is entitled to reasonable and necessary medical treatment for her alleged left shoulder injury.
3. Whether the Claimant is entitled to temporary total disability benefits from the date after her alleged injury, which would be from September 14, 2024, to a date yet to be determined.

Contentions

The Claimant's and Respondents' contentions are set out in their respective response to the Pre-hearing Questionnaire. Said contentions are as follows:

Claimant:

The Claimant contends that on September 13, 2024, she was walking down the steps, and housekeeping was waxing the stairs with sign alerting them of the wax. The Claimant's feet slipped onto the next step catching herself with her left arm. It jarred her left arm. Claimant is also alleging her entitlement to medical treatment benefits and temporary total disability compensation for her left shoulder condition.

Respondents:

The Respondents contend that the Claimant did not suffer a compensable injury and was not performing employment services at the time of the alleged injury. The Claimant is not entitled to medical benefits or indemnity compensation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including the medical reports, the documentary evidence, and other matters properly before the Commission, and after having had an opportunity to listen to the testimony of the witnesses and having observed their demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The proposed stipulations set forth above are reasonable and hereby accepted.
3. The Claimant was not performing employment services at the time of her accidental incident of September 13, 2024, nor has she presented any documentary medical evidence proving a left shoulder injury supported by objective medical findings, as defined under Ark. Code Ann. §11-9-102 (16) (Repl. 2012) showing an injury to her left shoulder.
4. The remaining issues of medical treatment and temporary total disability benefits have been rendered moot and not discussed herein.
5. This claim is hereby respectfully denied and dismissed in its entirety in accordance with the findings of fact made within this Opinion.

Summary of Evidence

The following witnesses testified at the hearing: the Claimant, Ms. Julruthia McIntosh, Susan Burns Smith (bath attendant); Kizzy Canady, (bathhouse manager); and Derrick Hampton (lobby attendant).

The record consists of the transcript from the Full Hearing held on February 27, 2026, and the exhibits held therein. In addition to the Pre-hearing Order discussed above, the exhibits admitted into evidence in this case were: Claimant's Exhibit 1, which is a one-page Claimant's Medical Record.

HISTORY

While there was extensive testimony presented during the hearing, from several witnesses, the most relevant undisputed facts to this claim are as follows:

The parties stipulated that the employee-employer-insurance carrier relationship existed on September 13, 2024. The Claimant began working for respondent-employer in November 2023. She worked performing employment duties essentially inclusive of that of a bath attendant. At the time of her alleged injury, Kizzy Canady was her supervisor. She worked on the third floor of the building. The Claimant contends that she was walking down the stairs to exit the building, when all of a sudden, she slipped and almost fell down the steps that were being waxed. According to the Claimant, she was walking down the steps, holding onto the rails to exit the building to take a break on the morning of September 13, at around 11:30 a.m. She testified that a male coworker (Derrick Hampton) caught her to keep her from falling. According to the Claimant, during this incident, she injured her left shoulder, which resulted in a torn rotator cuff tear. She testified that she did not report her injury on the date of the incident to her supervisor because she did not think it was a problem. However, the Claimant testified that she reported her injury to Ms. Canady the next morning. She further testified that Ms. Canady told her to call "Missy" in HR, because she assumed they were closed since it was on a Saturday.

Although the Claimant testified that she sought medical treatment for her alleged injury from various medical providers, she did not offer any documentary medical evidence supported

by objective medical findings showing that she sustained an injury to her left arm/shoulder. The Claimant insists that a couple of weeks later she went to the ER and saw a doctor because her arm continued to bother her. Per the Claimant they did x-rays. However, this record has not been made a part of the record.

In this regard, the Claimant admitted into evidence a one-page medical record showing that she was evaluated by Dr. Michelle Weaver at the National Park Medical Center on December 5, 2024. Per a Patient Visit Information clinical note authored by Dr. Weaver, she evaluated the Claimant due to a rotator cuff injury. This documentary medical evidence only shows that the Claimant was given instructions about a rotator cuff tear, along with activity restrictions, and a medication regimen.

Of note, on the day of the Claimant's alleged work-related incident, she was terminated from her employment with the respondent-employer due to reasons unrelated to this claim. Specifically, the Claimant testified that Ms. Canady fired her because one of the employees reported that she had said something out of the way to them.

The Respondents contend that the Claimant was not performing employment services at the time of her alleged work incident of September 13, 2024. They have also asserted that there are no objective medical findings of record to support a finding that the Claimant sustained an injury to her shoulder.

ADJUDICATION

Compensability

The Claimant contends that she sustained a compensable injury to her left shoulder on September 13, 2024, as she tried to exit the building to take a break. The evidence shows that the

Claimant suddenly slipped on steps that were being waxed by housekeeping. A coworker caught the Claimant to keep her from falling to the ground.

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.

A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D). The Claimant must prove by a preponderance of the evidence that she sustained a compensable injury. Ark. Code Ann. § 11-9-102(4) (E)(i).

The test for determining whether an employee was acting within the "course of employment" at the time of the injury requires that the injury occur within the time and space boundaries of the employment, when the employee is carrying out the employer's purpose or advancing the employer's interests directly or indirectly. *Pilgrim's Pride Corp. v. Caldarera*, 54 Ark. App. 92, 923 S.W.2d 290 (1996).

More specifically, an employee is performing employment services when they are doing something that is generally required by their employer. *Texarkana School District v. Conner*, 373 Ark. 372, 284 S.W. 3d 57 (2008). The test is whether the injury occurred within the time and space boundaries of the employment, when the employee was carrying out the employer's interest, either directly or indirectly. *Javen v. Economy Inn & Suites*, 370 Ark. 414, 260 S.W. 3d 281 (2007).

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After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that the Claimant has not met her burden of proof for a compensable injury due to the following two reasons.

First, I find that the Claimant failed to prove she was performing employment when her work-related incident occurred on September 13, 2024. Secondly, the Claimant did not prove that she sustained a compensable injury to her left arm /shoulder established by medical evidence supported by objective findings as defined under Ark. Code Ann. §11-9-102 (16).

In that regard, it is undisputed that the Claimant's alleged left shoulder injury occurred as she was walking down the steps to exit the building to go on her own individual break. I find that Claimant's testimony in this regard was credible. There is no evidence whatsoever proving that during her break, the Claimant was doing anything to conduct her employer's purpose or advancing the employer's interests directly or indirectly. There has been no evidence presented to support the finding that the Claimant was subject to being recalled to the return to her work area by her employer during her own private break. The evidence shows that the Claimant's break was personal in nature, and she was not advancing her employers' interest directly or indirectly. Accordingly, based on the evidence before me, I am compelled to find that the Claimant was not performing employment services at the time of her September 13, 2024, alleged work-related incident.

Next, even if the Claimant is able to overcome her burden of proof that she was in fact performing employment services at the time of her alleged work injury, she did not offer into evidence any documentary medical evidence supported by objective medical findings establishing an injury to her left arm/ shoulder in the form of a rotator cuff tear.

The Claimant testified that she sought medical attention from various doctors and medical professionals. However, the Claimant failed to present any of these medical records into evidence. The Claimant only offered into evidence a one-page medical note from a visit to ER Department of National Park Medical Center/NPMC, on December 5, 2024, due to a “rotator cuff injury.” Specifically, this document is a Patient Visit Information clinical note showing that the Claimant’s medical caregivers were Dr. Michelle Weaver and Nurse Practitioner Scott E. Campbell. Although Dr. Weaver prescribed some medications for the Claimant to take as needed for acute left shoulder pain, she did not note an objective medical finding associated with the Claimant’s left shoulder such as a contusion, swelling, or a muscle spasm, for which she prescribed the medications. Moreover, it is well settled under workers’ compensation law that a diagnosis of “a rotator cuff tear” without more, does not satisfy in this case the requirement of an “objective finding.” *Rodriguez v. M. McDaniel Co.*, 98 Ark. App. 138, 252 S. W. 3d 146 (2007).

Accordingly, I must find that the Claimant failed to admit into evidence any medical evidence supported by objective findings establishing a left shoulder injury.

Hence, I hereby find the Claimant failed to prove an injury to her left shoulder because the injury was not proven by medical evidence supported by objective findings. The Claimant also failed to prove by a preponderance of the evidence that she sustained an injury while performing her employment duties for her respondent-employer on September 13, 2024.

The remaining issues pertaining to medical evidence and temporary total disability compensation have been rendered moot and not discussed herein this Opinion. This claim for a left shoulder injury on September 13, 2024, must be and is hereby respectfully denied and dismissed in its entirety.

ORDER

The Claimant failed to establish a compensable injury to her left shoulder, while performing her employment duties, nor did she prove by medical evidence supported by objective findings establishing an injury to her left shoulder on September 13, 2024. The associated issues of reasonably necessary medical treatment and temporary total disability compensation have been rendered moot and not discussed in this Opinion.

Therefore, this claim must be and is hereby respectfully denied and dismissed in its entirety.

IT IS SO ORDERED.

