

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H404087

REBEKAH MOORE, Employee	CLAIMANT
NORTH ARKANSAS REGIONAL MEDICAL CENTER, Employer	RESPONDENT
RISK MANAGEMENT RESOURCES, Carrier	RESPONDENT

OPINION FILED APRIL 23, 2025

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Harrison, Boone County, Arkansas.

Claimant represented by MARK ALAN PEOPES, Attorney at Law, Little Rock, Arkansas.

Respondents represented by MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On March 20, 2025, the above captioned claim came on for a hearing at Harrison, Arkansas. A pre-hearing conference was conducted on December 11, 2024, and a pre-hearing order was filed on that same date. 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 employee/employer/carrier relationship existed among the parties at all relevant times.

At the time of the hearing, the parties agreed to stipulate the claimant earned sufficient wages to be entitled to the maximum compensation rate for 2024.

At the pre-hearing conference the parties agreed to litigate the following issues:

1. Compensability of injury to claimant's low back on March 24, 2024.
2. Claimant's entitlement to medical treatment.
3. Claimant's entitlement to temporary total or temporary partial disability benefits.
4. Attorney's fee.

At the time of the hearing, the parties indicated that in the event the claim is compensable they would be able to work out the dates claimant would be entitled to temporary total disability or temporary partial disability benefits; therefore, her entitlement to those benefits is not an issue at this time.

The claimant contends that she hurt her back on the job on March 28, 2024, and that she is entitled to medical treatment and a controverted attorney's fee.

The respondents contend the claimant's lower back injury was initially accepted as compensable, and some benefits were paid through July 16, 2024; however, respondent now contends that claimant did not suffer a compensable injury to her low back on March 28, 2024. Respondents assert that claimant sustained an intervening incident or new injury on June 5, 2024, and that any need for treatment is associated with that incident/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 witnesses and to observe their 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 December 11, 2024, and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. The parties' stipulation that claimant earned sufficient wages to be entitled to the maximum compensation rate for 2024 is also hereby accepted as fact.

3. Claimant has failed to meet her burden of proving by a preponderance of the evidence that she suffered a compensable injury to her low back on March 28, 2024.

FACTUAL BACKGROUND

On March 28, 2024, claimant was working for respondent as a paramedic and responded to a call involving an elderly woman who was in a bed; comatose, but lethargic. She was covered with feces and vomit. Claimant testified that in order to move the woman they used a MegaMover – a device that looks like a blanket with handles. After rolling her onto the device, claimant and others were in the process of carrying her out of the house to place her in an ambulance. As they were going down some steps "...I felt a sharp pain in my lower right back."

After arriving back at their station, claimant reported this incident to her direct supervisor, Brent Rouse. She also completed an incident form but did not seek any medical treatment. After that date, claimant continued to perform her regular job duties as a paramedic for respondent. On June 5, 2024, claimant had Rouse take her to Urgent Care for complaints of low back pain.

After receiving conservative treatment for her back complaints which included medication, injections, physical therapy, and work restrictions; claimant underwent a lumbar MRI scan which was interpreted as showing a disc herniation at L5-S1. Claimant underwent a microdiscectomy by Dr. Evans on July 25, 2024.

The medical records indicate that claimant did well following her surgery for about a week before she had a sudden onset of recurrent pain. Another MRI scan was ordered which showed a recurrent disc herniation. A second surgical procedure was performed by Dr. Evans on August 27, 2024. The medical records indicate the claimant did well for about a month after the second surgery, but claimant again returned to Dr. Evans with complaints of recurrent low back and leg pain. Another MRI was performed which again revealed a recurrent disc herniation at L5-S1. Dr. Evans recommended a fusion and he performed that procedure on December 26, 2024.

Respondent originally accepted this claim as compensable but subsequently denied compensability. As a result, claimant has filed this claim contending that she suffered a compensable injury to her low back on March 28, 2024. She requests payment of related medical treatment for her compensable injury and a controverted attorney fee.

ADJUDICATION

Claimant contends that she suffered a compensable injury to her low back as a result of moving an elderly woman to an ambulance on March 28, 2024. Claimant's claim is for a specific injury, identifiable by time and place of occurrence.

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.

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has failed to meet her burden of proof.

First, I note that there is no question that claimant reported an injury to her low back on March 28, 2024. Claimant testified that when she returned to the station, she reported the incident to her supervisor, Brent Rouse, and completed an incident report. Rouse confirmed that claimant reported having low back pain on March 28 after going on a call. Likewise, other employees, Leah Decker and Amanda Perse, also testified that claimant mentioned having low back pain after going on a call on March 28.

However, simply reporting an injury does not satisfy all the elements of compensability. For reasons discussed below, I do not find that claimant has met her burden of proof.

Although claimant did report an injury to her supervisor, she did not request any medical treatment that day. On direct examination, claimant was asked whether she believed she needed medical treatment on March 28.

Q Do you believe you were in need of medical treatment at that time?

A Yes and no. I'm a stubborn person so – and I was – it was, I believe, 11:00 o'clock in the morning, a half an hour

after I started my shift. And I didn't ask for medical treatment, I wasn't advised.

At her deposition, claimant indicated that she did not feel that she needed medical treatment on March 28.

Q I asked you in deposition, this is on page 30, "Did you think you needed treatment that day?" Your response was, "No." Is that correct?

A Correct.

Rouse testified at the hearing that when claimant reported the incident to him he asked her if she wanted to see Rachael Boles in human resources who handles respondent's workers' compensation claims. He stated that claimant replied, "Not right now." Rouse testified that he informed claimant to let him know if anything changed. He further testified that after being off work for her normal three days, claimant returned to work for respondent and performed her normal job duties until June 5, 2024. Although claimant testified that after March 28 she mentioned continuing back pain to Rouse, he testified that he did not recall claimant complaining of any continuing back pain and if claimant had done so he would have asked her if she wanted to see Boles or get medical treatment.

Claimant has acknowledged that after March 28 she continued to perform her regular job duties at her regular hours as a paramedic. She also testified that after March 28 there were many times that she felt something needed to be done for her back because just going up the steps into the ambulance was painful. She stated that she was using ice, heat, and her husband's TENS unit, but they did not help. Despite

these apparent complaints, claimant admitted that she did not tell Rouse that she needed medical treatment.

Q And you told me you didn't tell him you needed treatment, just that your back hurts. Is that right?

A Yes.

Claimant testified at her deposition that after the incident on March 28 she did not see a doctor until she went to Urgent Care on June 5, 2024. This is incorrect. On April 25, 2024, claimant sought medical treatment from her primary care physician, Dr. Robert Foy, for "flu-feeling" symptoms. Other than flu-like findings, the report indicates that a general examination showed claimant to be in no acute distress. Claimant returned to Dr. Foy for a follow-up visit on May 6, 2024, at which time her diagnosis was acute bronchitis and asthma aggravation. Again, the general physical exam reflects that claimant was in no acute distress. Significantly, even though it is claimant's testimony that there were many times that even going up the steps into the ambulance was painful and that she was using heat, ice, and her husband's TENS unit, there is no mention of any back complaints in either of Dr. Foy's medical reports.

I also note that claimant testified that she had no lower back problems or sciatica before the incident on March 28. However, on June 13, 2024, claimant was seen for complaints of back pain by Bailey Savage, APRN for Dr. Foy. Her report of that date states:

Her lumbar spine xray was unchanged from 2023 and showed mild degenerative disc disease on L5/S1. (Emphasis added.)

Obviously, there was something about claimant's low back in 2023 that was significant enough for Dr. Foy to order an x-ray.

Perhaps the most important evidence in this claim involves the events of June 5, 2024. On that date during some downtime, claimant and a coworker engaged in some exercises while "goofing around". Testifying at the hearing was Leah Decker, who works as a dispatcher for respondent. She testified:

They were sitting in their chairs twirling their arms like this, picking their legs up and spinning around their knees and their ankles. They did a couple of toe touches like this. They were laughing, they were watching a office exercise video on her phone and that's what they were mimicking.

Q Do you – if you know, do you know why they were doing this?

A Because they thought it was funny and they were trying out new ways to get exercise in the office area instead of just sitting there, new ways to exercise.

Decker went on to indicate that based on her observation of claimant, she had no reason to believe that claimant had injured herself that day. Amanda Perse, dispatcher and part-time EMT, also testified at the hearing. She participated in the exercises with claimant and testified as follows:

We were sitting in a chair and just doing like chair exercises, our arms, our legs, just, I don't know.

Q Why?

A Just goofing around.

Perse also testified that she had no reason to believe that claimant had injured herself while doing the exercises.

Jackie Cooper, a nurse case manager, testified at the hearing that she scheduled claimant's appointment with Josh Trinkle, PA, on July 2, 2024, and attended the examination. Cooper testified that claimant indicated that she was performing some exercises at work; twisted; and felt fire and a feeling like she was paralyzed.

The medical report from Savage date June 13, 2024, states:

Patient reports she initially injured her back a couple of months ago lifting a patient. Heat relieved the pain at that time. The pain has come and gone since then for short periods of time. However, she reports the lower back pain with right sided sciatica came back last week when she went to urgent care and has been constant since that time. (Emphasis added.)

Trinkle, in his report of July 2, 2024, stated:

States that the back pain was pretty significant at that point and time on 3/28/2024. In turn she states that she did report the injury in March following the incident. However, no treatment was initiated. In turn she states that she had a recurrent injury where she was twisting in the process of doing a duty at work and felt an excruciating amount of low back pain with right lower extremity pain that shot down the back of the leg. States this was in the beginning on June to where she went and had an x-ray of her lumbar spine underwent. (Emphasis added.)

This twisting incident was the exercises on June 5. Claimant has not testified about any other specific twisting incident occurring at work while performing any job duties that resulted in recurrent pain.

Finally, Dr. Evans in his report of July 15, 2024, stated:

Symptoms never resolved but then worsened again at work in June. This occurred while twisting in her office chair doing filing work.

Again, claimant has not testified as to an injury while twisting in an office chair while filing in June. She was twisting in an office chair in June while performing exercises with a coworker.

With regard to June 5, claimant testified at her deposition that she did not even think she was at work on June 5, but subsequently admitted that she had no reason to dispute her timecard showing that she was there for a period of time. She also testified that she did not recall telling anyone that the exercises caused an increase in her pain or that she said anything to Dr. Evans or his assistant about the exercises. Claimant acknowledges that the exercises did not have anything to do with her job, but denies that she injured herself in the performance of those exercises.

Significantly, it was the day claimant engaged in these exercises that she requested medical treatment. Rouse testified that claimant indicated that she was having severe back pain; was having trouble walking; and did not feel that she could climb into the ambulance. She indicated that she wanted to go to Urgent Care and Rouse took her there for treatment. Rouse also testified that he asked claimant if her need for medical treatment was related to a work related injury.

I asked her if it was a work-related injury because if it was, we had to go through HR. And she said she didn't feel like it was.

It should be noted that while Dr. McAlister made reference to the June 5, 2024, visit in his report, the actual medical report of June 5, 2024, is not in evidence.

In summary, I do not find that claimant has met her burden of proving by a preponderance of the evidence that suffered a compensable injury to her low back on March 28, 2024. While claimant did report an injury to her supervisor and coworkers on

that day, I do not find that sufficient to prove a compensable injury given the remaining evidence. Claimant testified that after this incident she continued to have pain while getting in the ambulance and treated her pain with heat, ice, and a TENS unit borrowed from her husband. Despite these complaints, claimant did not request any medical treatment, and she continued to perform her regular job duties as a paramedic. Claimant even sought medical treatment from her primary care physician for flu symptoms on April 25, 2024, and May 6, 2024, but did not complain of low back pain. To the contrary, Dr. Foy noted that claimant was in no acute distress during both of those visits.

Claimant did not seek any medical treatment for complaints of low back pain until June 5, 2024, more than two months after March 28. This was the same day she was performing exercises with a coworker while “goofing around”. Admittedly, these exercises were not related to her job activities with respondent. Although claimant has testified that she did not injure herself while performing those exercises, the events of that day were significant enough for her to seek medical treatment for her back for the first time and she mentioned additional complaints beginning in early June to her medical providers. Furthermore, according to the testimony of Rouse, claimant’s supervisor who took her to Urgent Care on June 5, he asked claimant if her complaints that day were work related and claimant that “she didn’t feel like it was.”

Accordingly, based upon the evidence presented, I find that claimant has failed to meet her burden of proving by a preponderance of the evidence that she suffered a compensable injury to her low back on March 28, 2024.

ORDER

Claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury to her low back on March 28, 2024. Therefore, her claim for compensation benefits is hereby denied and dismissed.

Respondents are liable for payment of the court reporter's charges for preparation of the hearing transcript in the amount of \$634.70.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE