

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC NO. H408153**

PEARLIE McDANIEL, EMPLOYEE

CLAIMANT

**CRESTPARK OF FORREST CITY LLC,
SELF-INSURED EMPLOYER**

RESPONDENT

**CANNON COCHRAN MGMT. SVCS., INC.,
THIRD-PARTY ADMINISTRATOR**

RESPONDENT

OPINION FILED AUGUST 6, 2025

Hearing before Administrative Law Judge O. Milton Fine II on June 27, 2025, in Forrest City, St. Francis County, Arkansas.

Claimant represented by Mr. Gary Davis, Attorney at Law, Little Rock, Arkansas.

Respondents represented by Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On June 27, 2025, the above-captioned claim was heard in Forrest City, Arkansas. A prehearing conference took place on April 28, 2025. The Prehearing Order entered that same day pursuant to the conference was admitted without objection as Commission Exhibit 1. At the hearing, the parties confirmed that the stipulations, issues, and respective contentions, as amended, were properly set forth in the order.

Stipulations

The parties discussed the stipulations set forth in Commission Exhibit 1. Following an amendment of Stipulation No. 2 at the hearing, they are the following, which I accept:

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The employee/self-insured employer/third-party administrator relationship existed among the parties on August 16, 2023.
3. Claimant's average weekly wage of \$288.75 entitles her to compensation rates of \$193.00/\$154.00.
4. Respondents have controverted this claim in its entirety.

Issues

At the hearing, the parties discussed the issues set forth in Commission Exhibit

1. After the addition of an issue concerning when Claimant furnished notice of her alleged injury, the following were litigated:

1. Whether Claimant sustained a compensable injury to her right shoulder by specific incident.
2. When did Claimant furnish notice of her alleged injury?
3. Whether Claimant is entitled to reasonable and necessary medical treatment of her alleged injury.
4. Whether Claimant is entitled to temporary total disability benefits.
5. Whether Claimant is entitled to a controverted attorney's fee.

All other issues have been reserved.

Contentions

The respective contentions of the parties are as follows:

Claimant:

1. Claimant contends that she sustained compensable injuries to her right shoulder when she fell while on the job and in the employ of Respondent. She further contends entitlement to payment of medical expenses incurred and to temporary total disability benefits through a date yet to be determined.

Respondents:

1. Respondents contend that Claimant did not suffer a compensable injury on August 16, 2023. She was not working on the alleged date of injury or performing any employment-related activities.
2. Respondents further contend that Claimant failed to give notice of any alleged incident until October 10, 2024, and that they should not be liable for benefits in the event compensability is found.
3. Moreover, Respondents contend that Claimant continued to work for Respondent employer through her date of resignation in December 2024.
4. Finally, Respondents contend that the medical documentation does not support a compensable injury, nor does it support entitlement to benefits in the event compensability is found.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including 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, 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 stipulations set forth above are reasonable and are hereby accepted.
3. Claimant has not proven by a preponderance of the evidence that she sustained a compensable injury to her right shoulder injury by specific incident.
6. Because of Finding/Conclusion No. 3, supra, the remaining issues—concerning when did Claimant furnish notice of her alleged injury, and whether she is entitled to reasonable and necessary treatment, temporary total disability benefits, and a controverted attorney's fee—are moot and will not be addressed.

CASE IN CHIEF

Summary of Evidence

The hearing witnesses were Claimant, Tracey Fleetwood, and Keith Adams.

In addition to the Prehearing Order discussed above, the exhibits admitted into evidence in this case were Claimant's Exhibit 1, a compilation of her medical records, consisting of one index page and 40 numbered pages thereafter; Respondents' Exhibit 1, another compilation¹ of Claimant's medical records, consisting of one index page and

¹This exhibit does not comply with the Prehearing Order because (1) the index is not date-specific; (2) it is organized by provider and not chronologically. Respondents are cautioned not to do this in the future.

59 numbered pages thereafter; and Respondents' Exhibit 2, non-medical records, consisting of one index page and 11 numbered pages thereafter.

Testimony. Claimant, who is 77 years old and a high school graduate, testified that she worked for Respondent Crestpark of Forrest City LLC ("Crestpark") as a cook's helper. She described her duties:

Wash dishes, clean up behind yourself, clean the refrigerator and the deep freezer out and get it all stacked in, you know, real nice, and I would clean the sink table and then wash the dishes . . . I had to cook—sometimes I had to cook pies and cakes, and then I would have to do a salad for the other employees, the salaried employees.

Asked about the incident at issue, which occurred in August 2023, Claimant related:

Well, I went—the CNA came in and we knowing every day this lady, she ate cream of chicken noodle soup, and they a small can. And I went back there in the room, in the stockroom, and got that, the can of soup, and then I was in such a hurry my foot got caught on the pallet on the floor, and I fell

Claimant's testimony was that her right shoulder was injured in this fall, which stated occurred on a Saturday approximately ten minutes before the end of her shift. No one witnessed the incident. Right after it occurred, she went to the Forrest City Medical Center; and the following Monday, Claimant went to Dr. James Meredith, her personal physician. At the time she presented for treatment that day, she also had a knot on her head as a result of the fall. She was given, inter alia, a steroid injection in her shoulder in the emergency room. According to her, she continued to receive these injections for approximately 18 months—which enabled her to continue working at Crestpark during that period of time.

According to Claimant, her supervisor at this time was Keith Adams. Asked if she reported the fall to him, she replied that supervisors did not work on the weekend. She added: “So when I went in Monday, I told Keith I was hurt, and he said—he was ripping at some papers. He said, ‘okay.’” Her testimony was that she stayed put in his office, waiting for papers to report her injury. But he informed her that “[w]e don’t do workman’s comp,” and asked her to close the day as she left. Claimant stated that she also told “Jamie,” a kitchen helper who was also working at Crestpark on August 16, 2023, that she had fallen and gotten hurt.

Asked about her current shoulder condition, Claimant testified that she suffers from sharp pain in the shoulder. She is unable to raise her right arm higher than just above her head. Dr. Meredith referred her to Dr. Ron Schechter, a specialist in Jonesboro. She was ultimately found to have suffered a tear in her shoulder. Surgery thereon has been scheduled for July 2025. Her treatment has been covered by her Medicare.

Claimant stated that she told treating personnel at both the hospital and Dr. Meredith’s office that she hurt her shoulder at work. But when asked about purported discrepancies in her account contained in Dr. Meredith’s records, Claimant denied the accuracy of those other references. For instance, while a November 10, 2023, report reflects that Claimant stated that her shoulder was injured when her nephew dropped a flowerpot on it while the two of them were moving her sister, Claimant disputed making this statement, adding that her sister did not move. During my questioning of her, the following exchange took place:

Q. I've been listening to your testimony and one of the things I'm curious about is, are you certain that August 16th of 2023, are you sure that's the day you fell?

A. I'm positive.

Q. How do you know for certain?

A. Because I looked on the calendar and when I got to the—well, I knowed about it when I got to Dr. Meredith's office that Monday.

After it was pointed out² to Claimant that August 16, 2023, fell on a Wednesday—not a Saturday—the following exchange occurred:

Q. Did you say, Ms. McDaniel, that you know what day of the week this happened? What day was it?

A. It was on a Saturday.

Q. You know it was a Saturday?

A. Yes, sir.

...

Q. Did you fall on Wednesday?

A. I fell on a Saturday.

Q. On a Saturday.

A. Uh-huh.

Q. Okay. Where did you come up with the 16th, then? You said you looked at a calendar, though.

A. Yeah, but I was—when I got home, I was kind of out of it. I didn't hardly make it home.

Q. Well, when did you look at a calendar?

A. That Monday, I believe.

²I hereby take judicial notice under *Buxton v. City of Nashville*, 132 Ark. 511, 201 S.W. 512 (1918), that August 16, 2023, fell on a Wednesday.

Q. The following Monday?

A. Because I didn't go to church that Sunday.

Q. Okay, all right. And you're certain it was a Saturday? There's no question in your mind?

A. It was a Saturday.

Called by Respondents, Tracey Fleetwood testified that she is the administrative assistant at Respondent Crestpark. As part of her duties, she handles workers' compensation matters. She stated that employees who suffer work-related injuries should report them to their supervisor, and that they are sent to Dr. Meredith for treatment. Workers injured on the weekend can see the nurse who is on duty. The facility has a Form P on display.

According to Fleetwood, she did not know about Claimant purportedly being injured at work prior to October 10, 2024. Nor was she aware that Claimant was treating with Dr. Meredith.

Called by Respondents, Keith Adams testified that he is the dietary supervisor at Crestpark. He was Claimant's direct supervisor. He stated that he did not become aware of Claimant's alleged shoulder injury until she filed her claim in 2024. Before that time, it was his understanding, based on a conversation with her, that Claimant hurt her shoulder when she fell in her yard while running from a dog. But shortly thereafter, he stated that Claimant told him "that she was out talking to a neighbor and a stray dog came up, and they ran in the house and her neighbor fell on top of her." He denied that Claimant told him in August 2023 that she hurt her shoulder at work. However, he alleged that her reporting the alleged injury in October 2024 was contemporaneous with

her being written up for disruptive behavior and then suspended for smoking at the facility.

Medical Records. The medical records in evidence, contained in Claimant's Exhibit 1 and Respondents' Exhibit 1, reflect the following:

On November 10, 2023, Claimant presented to APRN Madeline Herrington, who was in Dr. Meredith's office. Per the report in evidence, Claimant related to Herrington that "[s]he had a flower pot to fall on her shoulder and she fell and now she is having pain in her right shoulder[.]" The following narrative appears later in the report:

[P]atient presents with pain to the right shoulder [and] denies wanting x-rays at this time. Reports helping her sister move and her nephew accidentally dropped a flower pot on her and then she fell. Denies hitting her head or LOC [and] reports pain to the shoulder will return if no improvement over the weekend.

Examination notes concerning the shoulder reflect only limited range of motion. Herrington assessed her as having "[a]cute pain of right shoulder" and administered injections of Depo Medrol and Toradol/Keterolac. But Claimant returned on November 13, 2023, stating that she was still having pain and was unable to move her shoulder. As before, examination of the shoulder showed only that she was having range-of-motion issues with it. An x-ray of the shoulder was read by Dr. John Oliver on November 14, 2023, to show "[n]o acute fracture or dislocation . . . [and] [m]ild degenerative changes of the right AC joint and glenohumeral joint noted."

On March 4, 2024, Claimant returned to Dr. Meredith's office and requested another injection of her shoulder. He gave her an injection of Lidocaine/Triamcinolone. Claimant returned to Meredith on May 20, 2024, but did not complain about her shoulder. This changed, however, on August 16, 2024. On this occasion, she stated

that she hurt her right shoulder “when falling on it in the spring.” She denied re-injuring it, and added that the shoulder pain was worsening. Once again, examination showed that she had limited range of motion in the shoulder.

When Claimant returned to Dr. Meredith’s office on September 19, 2024, and saw APRN Tracy Jill Jones, she informed her that “she fell [in the] fall of last year on some doorsteps and hurt her right shoulder and . . . has been experiencing shoulder pain since . . .” Later in the report of that visit, Jones wrote:

Patient presents complaining of chronic right shoulder pain. It started about 3 years ago. She was taking care of her husband who had severe dementia, and he hit her on the top of her shoulder.

Claimant requested an MRI of her right shoulder; and one was performed on September 23, 2024. The MRI revealed that she had a full-thickness tear of the supraspinatus and infraspinatus tendons with 4 cm of retraction, an incomplete full-thickness tear of the subscapularis, tenosynovitis of the long and short heads of the biceps tendon, and moderate glenohumeral joint effusion.

On October 8, 2024, Claimant saw Dr. Schechter. The history portion of his report reads in pertinent part:

The patient presents for evaluation of right shoulder pain . . . [s]he denies any history of trauma. She started having pain in her shoulder about a year ago and it has gotten progressively worse over time.

Schechter informed Claimant “that per problem is consistent with significant rotator cuff arthropathy with massive tearing of the rotator cuff as well as secondary arthritis.”

On November 19, 2024, Claimant returned to Dr. Meredith and was given a Depo Medrol injection and a refill of Hydrocodone. She informed Meredith’s office on March

19, 2025, that surgery on her right shoulder had been scheduled for the following month.

ADJUDICATION

A. Compensability

Introduction. As the parties have stipulated, Claimant was an employee of Respondent Crestpark on August 16, 2023. In this action, Claimant has alleged that as a result of a specific incident at work on that date, she sustained a compensable injury to her right shoulder. Respondents deny that this alleged injury is compensable.

Standards. Arkansas Code Annotated § 11-9-102(4)(A)(i) (Repl. 2012), which I find applies here, defines “compensable injury”:

(i) An accidental injury causing internal or external physical harm to the body . . . arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is “accidental” only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D) (Repl. 2012). “Objective findings” are those findings that cannot come under the voluntary control of the patient. *Id.* § 11-9-102(16). The element “arising out of . . . [the] employment” relates to the causal connection between the claimant’s injury and his or her employment. *City of El Dorado v. Sartor*, 21 Ark. App. 143, 729 S.W.2d 430 (1987).

If the claimant fails to establish by a preponderance of the evidence any of the requirements for establishing compensability, compensation must be denied. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997). This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009

Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

Discussion. In examining the elements of compensability cited *supra*, it is clear that Claimant eventually was found to have objective findings of injury to her right shoulder in the form of, inter alia, rotator cuff tearing (found on the September 23, 2024, MRI). This objective finding certainly caused internal or external physical harm to Claimant's body and required medical services.

What remains to be determined, however, is whether Claimant's right shoulder condition arose out of and in the course of her employment and was caused by an incident that is identifiable by time and place of occurrence. Claimant must show that a causal connection existed between the injury and her employment. *Gerber Products v. McDonald*, 15 Ark. App. 226, 691 S.W.2d 879 (1985). An injury occurs "in the course of employment" when it occurs "within the time and space boundaries of the employment, while the employee is carrying out the employer's purpose or advancing the employer's interests directly or indirectly." *Olsten Kimberly Quality Care v. Pettrey*, 328 Ark. 381, 944 S.W.2d 524 (1997); *Pilgrim's Pride Corp. v. Caldarera*, 54 Ark. App. 92, 923 S.W.2d 290 (1996). An injury arises out of a claimant's employment "when a causal connection between work conditions and the injury is apparent to the rational mind." *Sartor, supra*.

In her hearing testimony, as detailed above, Claimant described her right shoulder getting hurt when she tripped over a pallet and fell in the stockroom at Respondent Crestpark while retrieving a can of soup. She was "positive" that the event in question took place on August 16, 2023, explaining that she had consulted a calendar the following Monday. But once it was pointed out that employment records in evidence

do not reflect that she worked that particular day, she explained that she knew that her fall occurred on a Saturday in August 2023.

Her testimony was that the same day as the fall, she went to Forrest City Medical Center; and that she saw Dr. Meredith the following Monday. But this, too, is not borne out by the evidence. As shown *supra*, she did not present for treatment for her right shoulder until November 10, 2023—87 days after August 16, 2023. A causal relationship may be established between an employment-related incident and a subsequent physical injury based on the evidence that the injury manifested itself within a reasonable period of time following the incident, so that the injury is logically attributable to the incident, where there is no other reasonable explanation for the injury. *Hall v. Pittman Construction Co.*, 234 Ark. 104, 357 S.W.2d 263 (1962). In the course of that visit, Claimant related to Dr. Meredith's office that she hurt her shoulder while she was helping her sister move when her nephew dropped a flowerpot on her, causing her to fall.

As her medical records show, being struck by a flowerpot is just one version of her story that she has given to treating personnel in describing how her right shoulder became injured. During an August 16, 2024, appointment, Claimant stated that the shoulder became hurt after she fell on it "in the spring." The next month, Claimant told other treating personnel that the injury in question took place in the autumn of 2023, and that it happened when she fell "on some doorsteps"—not on a pallet in a stockroom as detailed in her hearing testimony. But during that same visit, Claimant gave yet another explanation for her shoulder condition; she described it as beginning three years prior, when she was struck by her dementia-ridden husband. Amazingly, despite all of these

quite different origin stories—none of which bear resemblance to tripping over a pallet at work—Claimant told Dr. Schechter that she had suffered no known trauma to account for her right shoulder condition.

The determination of a witness' credibility and how much weight to accord to that person's testimony are solely up to the Commission. *White v. Gregg Agricultural Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001). The Commission must sort through conflicting evidence and determine the true facts. *Id.* In so doing, the Commission is not required to believe the testimony of the claimant or any other witness, but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *Id.*

In light of the foregoing, I am simply unable to credit Claimant's testimony. She has not established that her condition of her right shoulder as documented by the MRI was due to an accident that arose out of and in the course of her employment at Respondent Crestpark. Consequently, she has not proven by a preponderance of the evidence that she sustained a compensable injury to that shoulder by specific incident.

B. Remaining Issues

Because Claimant has not established that she suffered a compensable injury, the remaining issues—which consist of establishing when she furnished notice of her alleged injury and her entitlement to reasonable and necessary treatment, temporary total disability benefits, and a controverted attorney's fee—are moot and will not be addressed.

CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim for initial benefits is hereby denied and dismissed.

IT IS SO ORDERED.

Hon. O. Milton Fine II
Chief Administrative Law Judge