

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H300809

APRIL BENNETT, CLAIMANT  
EMPLOYEE

FAYETTEVILLE PUBLIC SCHOOLS, RESPONDENT  
EMPLOYER

ARKANSAS SCHOOL BOARDS ASSOCIATION, RESPONDENT  
INSURANCE CARRIER/TPA

OPINION FILED NOVEMBER 15, 2024

Upon review before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant represented by the HONORABLE EVELYN E. BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE JAMES A. ARNOLD, II, Attorney at Law, Fort Smith, Arkansas.

ORDER

In the above-styled matter, the claimant has filed a MOTION TO REMAND CLAIM FOR THE PURPOSE OF TAKING ADDITIONAL EVIDENCE. The Full Commission denies the motion.

The parties stipulated that the employment relationship existed on February 28, 2021. The claimant contended that she “sustained a compensable occupational injury/illness when exposed to mold while working.” The respondents contended that “the claimant’s condition does NOT meet the definition of either a compensable injury or compensable occupational illness.” After a hearing, an administrative law judge filed an opinion on August 12, 2024. The administrative law judge found that the

claimant “has failed to prove by a preponderance of the evidence that she sustained a compensable occupational illness to her body as a whole due to exposure to mold in the workplace on or about February 28, 2021.” The administrative law judge therefore denied the claim, and the claimant filed a timely notice of appeal.

The claimant now seeks to remand the claim to the administrative law judge “for the purpose of taking additional evidence.” The respondents oppose the claimant’s motion to remand. The following are prerequisites by the Full Commission on proffer to present newly discovered evidence: (1) the newly discovered evidence must be relevant; (2) it must not be cumulative; (3) it must change the result; and (4) the party seeking to introduce the new evidence must be diligent. *Quinn v. Webb Wheel*, 52 Ark. App. 208, 915 S.W.2d 740, citing *Haygood v. Belcher*, 5 Ark. App. 127, 633 S.W.2d 391 (1982).

In the present matter, the claimant seeks to introduce into the record the results of a Lab Analysis Report dated March 16, 2022. The claimant asserts that the Lab Analysis Report demonstrates that the claimant’s home was “clear of mold.” Nevertheless, the Full Commission finds that the information in the Lab Analysis Report will not change the result of our adjudication with regard to whether or not the claimant sustained a compensable occupational illness. In addition, the claimant has not been

diligent in presenting the new evidence. There is no probative evidence supporting the claimant's assertion that alleged "brain fog" caused the claimant's delay in presenting the results of the Lab Analysis Report to the Commission.

The Full Commission therefore denies the claimant's MOTION TO REMAND CLAIM FOR THE PURPOSE OF TAKING ADDITIONAL EVIDENCE. We direct the Clerk of the Commission to establish a briefing schedule with regard to the claimant's appeal of the administrative law judge's opinion filed August 12, 2024. The Full Commission's subsequent *de novo* review will include exclusively the evidence, exhibits, and testimony submitted into the record on May 14, 2024.

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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MICHAEL R. MAYTON, Commissioner

Commissioner Willhite dissents.