

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H308141

RACHEL BOYCE, EMPLOYEE	CLAIMANT
BALD KNOB SCHOOL DISTRICT, EMPLOYER	RESPONDENT
ARKANSAS SCHOOL BOARDS ASSOCIATION, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED SEPTEMBER 5, 2025

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

Claimant represented by the HONORABLE C. MICHAEL WHITE, Attorney at Law, North Little Rock, Arkansas.

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

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of the Administrative Law Judge filed April 29, 2025. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The stipulations set out above are reasonable and are hereby accepted.
3. That the claimant satisfied the required burden of proof to prove by a preponderance of the evidence that she suffered a compensable injury to her right foot by specific incident.

4. That the claimant is entitled to reasonable and necessary medical benefits in regard to her compensable right foot injury.
5. That the claimant is entitled to Temporary Total Disability benefits from the day following her injury up to the day of March 6, 2024.
6. That the claimant is entitled to attorney fees.
7. If not already paid, the respondents are ordered to pay for the cost of the transcript forthwith.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2012).

For prevailing on this appeal before the Full Commission, claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. § 11-9-715(a)(Repl. 2012). For prevailing on appeal to the Full

Commission, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. § 11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I must respectfully dissent from the majority opinion finding that the claimant proved by a preponderance of the evidence that she sustained a compensable injury to her right foot on December 18, 2023, which would entitle her to reasonable and necessary medical benefits, temporary total disability benefits from the day following her injury up March 6, 2024, and attorney fees. In my *de novo* review of the record, I find that this claim is not compensable.

The claimant alleged she sustained a compensable injury on December 18, 2023, when she tripped over a rug as she walked in the school building. The respondents have taken the position the claimant was not performing any employment duties at that time. After a hearing, an

administrative law judge (ALJ) ruled that the claimant had met her burden of proving that she sustained a compensable injury. The respondents appeal.

Our rules define a compensable injury as "[a]n accidental injury . . . arising out of and in the course of employment." Ark. Code Ann. § 11-9-102(4)(A)(i). A compensable injury does not include an "[i]njury which was inflicted upon the employee at a time when employment services were not being performed." Ark. Code Ann. § 11-9-102(4)(B)(iii). The Act, however, fails to define the phrase "in the course of employment" or the term "employment services." *Wood v. Wendy's Old Fashioned Hamburgers*, 2010 Ark. App. 307, 374 S.W.3d 785 (2010).

Our Supreme Court has held an employee is performing "employment services" when he or she "is doing something that is generally required by his or her employer." *Texarkana Sch. Dist. v. Conner*, 373 Ark. 372, 284 S.W.3d 57 (2008). The Commission uses the same test to determine whether an employee was performing employment services as it does when determining whether an employee was acting within the course of employment. *Id.*

Specifically, it has been held 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 purpose or advancing the employer's interest directly or indirectly." *Id.* The critical inquiry is whether

the interests of the employer were being directly or indirectly advanced by the employee at the time of the injury. *Id.* The issue of whether an employee was performing employment services within the course of employment depends on the particular facts and circumstances of each case. *Id.*

In the present case, the claimant is a preschool teacher with the Bald Knob School District. Her job duties included preparing students for kindergarten, teaching them the basics of the alphabet, numbers, and colors.

While children who have parents that work for the school district and arrive by 7:15 a.m., most students arrive at 7:30 a.m. The claimant's contracted hours with the school district are 7:30 a.m. to 4:00 p.m.

The claimant sustained an injury at 6:30 a.m. on December 18, 2023, when she tripped over a rolled-up rug as she walked in the building. While the claimant testified at her deposition that she may arrive early to prepare her classroom, write lesson plans, unstack chairs, or pick up items from the previous day, she had not done any of those things at the time of her fall. In fact, all she had done prior to her fall was turn on the light. There were no students in the classroom at that time nor were there any other teachers or aides present. *Id.* At her deposition, the claimant testified her lesson plans had already been completed for that day.

In short, an employee is performing employment services when engaged in the primary activity he or she was hired to perform, or in incidental activities that are inherently necessary for the performance of the primary activity, or when an employee is performing employment services when he or she is engaging in an activity that carries out the employer's purpose or advances the employer's interests. *Olsten Kimberly Quality Care v. Pettey*, 328 Ark. 381, 944 S.W.2d 524 (1997); *Hightower v. Newark Pub. Sch. Sys.*, 57 Ark. App. 159, 943 S.W.2d 608 (1997).

At the time of her injury, the claimant was not performing any services for which she was under contract with the school district, nor was she engaged in any activities that would further her employer's interest. She had simply turned on the light. Merely being present in her classroom or having the intention to begin working is insufficient for the claimant to meet her burden of proof.

Accordingly, for the reasons set forth above, I must dissent.

MICHAEL R. MAYTON, Commissioner