

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H101010

SONDRA DAVIS, EMPLOYEE	CLAIMANT
LITTLE RIVER NURSING & REHAB, EMPLOYER	RESPONDENT
RISK MANAGEMENT RESOURCES, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED MAY 9, 2022

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

Claimant represented by the HONORABLE ANDY L. CALDWELL, Attorney at Law, 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 November 30, 2021. 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. I hereby accept the above-mentioned proposed stipulations as fact.
3. The Claimant proved by a preponderance of the credible evidence that she sustained a compensable injury to her thoracic spine in the course and scope of her employment with the Respondents on

or about December 10, 2020.

4. On December 11, 2020, the Claimant notified her supervisor that she injured her back at work on the prior evening of December 10, 2020.
5. The Claimant proved by a preponderance of the evidence her entitlement to temporary total disability compensation from December 11, 2020 until June 17, 2021, except for the days that the Claimant returned to work for the Respondents.
6. The Claimant proved by a preponderance of the evidence that the medical treatment of record was reasonably necessary in connection with the injury received by her on December 10, 2020.
7. The Claimant's attorney is entitled to a controverted attorney's fee on the indemnity benefits awarded per this Opinion.
8. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

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(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 Palmer dissents.

DISSENTING OPINION

The majority finds that Claimant proved by a preponderance of the credible evidence that she sustained a compensable injury to thoracic spine in the course and scope of her employment with Respondent on or about December 10, 2020. I find the preponderance of the credible evidence to show otherwise. Accordingly, I respectfully dissent.

Claimant alleges that she hurt her back lifting a pot of water at work. According to her supervisor, Mr. Wilkerson, Claimant did not report that she hurt her back at work. Instead, his recollection is that she told him that she hurt it “while piddling around the house.” Also according to Mr. Wilkerson, Claimant told him that she was not going to the doctor and was going to take some medicine and that she should be alright in a few days. Mr. Wilkerson and Claimant had several conversations about her injury, yet none of them made Mr. Wilkerson aware that Claimant was claiming a work-related injury. On the day of the alleged injury, Claimant worked the full day and never complained that she was injured doing her job.

Dr. Fitzgerald authored a report of his opinions regarding Claimant’s injuries, and he is of the opinion that lifting a large pot of water as Claimant alleges, “would be unlikely to result in such an injury in the absence of advanced osteoporosis.” I find Dr. Fitzgerald’s medical opinion, particularly in light of Mr. Wilkerson’s unbiased testimony, to outweigh the self-serving testimony of Claimant. Accordingly, I would find that Claimant failed to prove by a preponderance of the evidence that she sustained a compensable injury and, therefore, respectfully dissent.

---

CHRISTOPHER L. PALMER, Commissioner