

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H004972

BARBARA HOWELL,
EMPLOYEE

CLAIMANT

ARKADELPHIA HUMAN DEVELOPMENT
CENTER, EMPLOYER

RESPONDENT

PUBLIC EMPLOYEE CLAIMS DIVISION,
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED AUGUST 22, 2022

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

Claimant represented by the HONORABLE GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE CHARLES H. McLEMORE, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed.

OPINION AND ORDER

The claimant appeals an administrative law judge's opinion filed April 28, 2022. The administrative law judge found that the claimant failed to prove she sustained a compensable injury. After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove by a preponderance of the evidence that she sustained a compensable injury. The Full Commission finds that the claimant did not establish a compensable injury by medical evidence supported by objective findings.

I. HISTORY

Barbara Howell, now age 58, testified that she became employed with the respondents, Arkadelphia Human Development Center, in 1988. The claimant testified that she eventually became a Rehabilitation Instructor for the respondent-employer. The parties stipulated that the employment relationship existed at all pertinent times, including July 8, 2020. The claimant testified on direct examination:

Q. Tell us what happened to cause you to be hurt.

A. I got to work and found that that training was being cancelled. They was needing all of the instructors to go to the homes as coverage, meaning as aides to care for the people....One of the ladies was laying – She was an obese lady laying back on the couch....

Q. Could you estimate how much she weighed?

A. She had to weigh over 300 pounds, because I'm 271....She was laying back on the couch, and I had seen what the other aides and people do and how they do, and they had told other people that come in how to get her up, and so I talked to her real sweet, and I got her by the hands, and I counted and I got her to a sitting position....So I got her to a sitting position on the couch, and I was like, okay, come on. We're going to get up. So I counted again, and she tried her best and then we got her to a standing position. Well, she was starting to fall, like her legs was just buckling or something. I had to grab her –

Q. Grab her?

A. Yeah. I had to grab her with everything I had around her, and she started going down to the floor....I had to grab her, and I got her down, you know, but she was going down. I helped ease her down.

Q. To the floor?

A. Yes.

Q. Okay.

A. And then I had to get her up. She got to whining and crying kind of a little bit, you know, the clients do that anyway when they get in distress, whether they hurt or not, and she wasn't hurt because I didn't let her hurt herself. I spread my

feet and braced myself, and I had to get her up, because if I hadn't of, I would have been in trouble for neglect having her on the ground, on the floor.

Q. Returned her to a seated position?

A. I did.

Q. Okay. Did you have some physical problems as a result of that circumstance?

A. Yes, sir, I did and I was hoping that I wouldn't. Yes, sir, I did....

Q. What sort of symptoms did you have?

A. Well, immediately when it happened, you know, I started feeling tight in my back and started hurting somewhat, and I'm just hoping it would pass. I went up to another residence and then I called my doctor to come in that same day, but I wasn't able to leave until a RN came and relieved me at two o'clock. I mean, at four o'clock. When I called the doctor's office, they said they wouldn't be able to take me because they don't stay open late like they used to because of Covid, so I went the next morning, went the next day.

According to the record, the claimant treated at Arkadelphia Medical Clinic on July 9, 2020. Charity M. Lowdermilk, APRN reported at that time:

She has had dizziness with left-sided chest discomfort for the past 2 days. She admits to lifting some clients at her work off of the floor. She has a history of dizziness and syncope. She has an implanted loop recorder and her cardiologist is Dr. Siddiqui....

The assessment on July 9, 2020 was "Anxiety," "Non-recurrent acute suppurative otitis media of right ear without spontaneous rupture of tympanic membrane," "Chest pain, unspecified type," and "Vertigo." It was noted, "Reassured this is likely musculoskeletal pain from lifting patients. However should she worsen she will follow-up."

The claimant signed an Arkadelphia Human Development Center “(Initial) Incident Report” on July 12, 2020. The Incident Report indicated that the date of incident was July 9, 2020. The claimant wrote a description of the incident:

Beth was lying backwards on a living room couch. I went to assist her to stand up to do activities of daily living. After she stood up, Beth started to sit back down missing the couch. To prevent Beth from falling, I helped ease Beth down to a sitting position on a rug in front of the couch to prevent her from injuring herself. I then got behind her and supported her under her armpits and lifted her to a standing position.

The claimant followed up at Arkadelphia Medical Clinic on July 16, 2020:

She is here for an ER follow-up today. She went to the emergency department on 7/10/2020 for chest pain and palpitations. She was admitted overnight and diagnosed with atypical chest pain. Her troponins were negative. She had a negative cardiac work-up. She ended up having pulled muscles in her chest. She had lifted on a client last week. The person was quite heavy. Today she mentions that she has some lower diffuse abdominal discomfort and lower back pain. She just feels achy like she has pulled some muscles....She has FMLA papers to fill out today....
Musculoskeletal: Lumbar back. She exhibits tenderness (Mild bilateral muscles).

Charity M. Lowdermilk’s diagnoses on July 16, 2020 were “Acute midline low back pain without sciatica” and “Lower abdominal pain.” Ms. Lowdermilk noted, “Fill out FMLA papers....Return if symptoms worsen or fail to improve.”

The claimant signed a Form AR-N, Employee's Notice Of Injury, on July 22, 2020. The Accident Information section of the Form AR-N indicated that the Date of Accident was July 8, 2020 and that the employer was notified of the accident on July 9, 2020. It was reported on the Form AR-N, "Employee was assisting a resident with getting up. The resident started to drop to the floor. She eased the resident to the floor rug. Later she felt pain to her lower abdomen, hips and thighs."

The claimant treated with Dr. Mark E. Larey at CHI St. Vincent Hot Springs on July 22, 2020:

PATIENT DESCRIPTION OF ACCIDENT

Assisting a resident with getting up. The resident started to drop to the floor. Eased the resident to the floor/rug. Later felt pain to lower abdomen, hips, thighs. Preventing a heavysset client from falling and lifting them up to a standing position on the floor....

HISTORY OF PRESENT ILLNESS

The problem began on 7/22/2020. 1st visit; 7/22/20: a very large client was about to fall so she got under the arms and lowered her to the floor. Began having discomfort in lower abdomen, b/l groin, b/l upper legs, upper arm, lower back pain and neck and upper back stiffness. Has been to her PCP several times, prescribed a muscle relaxer and has been taking Tylenol, admitted to hospital d/t chest pain; r/o cardiac. Continued pain, can't sleep, can't drive.

EXAMINATION

exam Chest: mild TTP of upper midline. Upper arms: no bruising, swelling. Limited ROM ~ 120*. Cervical spine; No swelling, bruising or wound present. No Palpable spasm noted TTP paracervical and upper thoracic Limited ROM ~ 30* R and L rotation Lower abdomen: reported TTP in in suprapubic, groin, and upper thighs, b/l Lumbar Spine; No swelling, bruising or wound present. TTP lower lumbar/SI jt

region No palpable spasm noted Limited ROM Forward bending 60*.

Dr. Larey's diagnosis included "Low back pain." Dr. Larey prescribed Celebrex and noted, "Workers' Compensation Claim." Dr. Larey also prescribed Flexeril and Ultracet. Dr. Larey noted, "The cause of this problem is related to work activities." Dr. Larey took the claimant off work and planned conservative treatment.

The record indicates that the claimant retired from the Division of Disabilities Services effective July 31, 2020.

Glenda Clark, Insurance Program Manager for the respondent-carrier, corresponded with Dr. Larey on August 12, 2020 and queried Dr. Larey in part, "Have you at any time since 07/08/2020 palpated or observed muscle spasms while evaluating and/or treating the above-referenced patient?" Dr. Larey checked a line beside the sentence, "I did not palpate/observe muscle spasms." Dr. Larey was also asked, "Through diagnostics or observation, were acute objective findings of an injury noted?" Dr. Larey wrote "none" on a line beside the sentence, "Other acute objective findings."

Glenda Clark corresponded with the claimant on August 14, 2020:

Our office administers the workers' compensation claims for AR Human Development Center – Arkadelphia. After completing my review of medical records on your claim, I must respectfully deny your claim for workers' compensation benefits due to **lack of objective medical findings**, as

required under the Arkansas Workers' Compensation Statute. If objective findings are discovered at a later date, we will review the file to determine if benefits are due. Enclosed is the AR-2 that will be filed with the Arkansas Workers' Compensation Commission. We will only cover the charges related to your treatment at CHI St. Vincent Business Health, including medications and physical therapy, and only through the date of this letter....

The claimant followed up at Arkadelphia Medical Clinic on September 11, 2020:

She has had low back pain that radiates down the back of both thighs for about the past 3 weeks. Pain is constant. She is having trouble sleeping and she cannot sit too long or walk for too long due to muscle spasms. She had physical therapy at Arkadelphia physical therapy and this did help at the time. Tramadol and Flexeril have been helpful. Aleve has been helpful as well. This started on 7/8/2020 when she lifted a heavy patient [off] the floor....

She has not had an MRI of the L-spine....

Musculoskeletal: Lumbar back: She exhibits tenderness (bilateral to midline).

Comments: **Straight leg raise is mildly positive bilaterally, to posterior thighs. Bilateral straight leg raise also causes central lower back pain.**

Charity M. Loudermilk diagnosed "Acute midline low back pain without sciatica" and "Hypercholesterolemia." Ms. Loudermilk noted, "Trial of meloxicam 15 mg daily. Refill tramadol for as needed use with sedation precautions. She still has some Flexeril."

An MRI of the claimant's lumbar spine was taken on September 28, 2020 with the following findings:

Alignment: Normal.

Vertebral bodies: Vertebral body heights are maintained normally.

Marrow: No active marrow edema is demonstrated. Modic type II signal is present at the inferior endplate of L1 and on either side of the L5-S1 interspace.

Intervertebral discs: Physiologic disc spaces are maintained normally.

Spinal cord: Included portions of the spinal cord display normal signal and morphology.

Soft tissues: The included soft tissues of the abdomen and pelvis are unremarkable.

L1-2: No disc bulge or herniation, spinal canal compromise, neural foraminal stenosis, or nerve root impingement is demonstrated.

L2-3: A minimal disc bulge does not significantly impact the thecal sac or narrow the neural foramina. No nerve root impingement is demonstrated.

L3-4: No disc bulge or herniation, spinal canal compromise, neural foraminal stenosis, or nerve root impingement is demonstrated. Facet arthrosis is mild bilaterally.

L4-5: A minimal disc bulge does not compromise the spinal canal. Facet arthrosis is moderate bilaterally. No right-sided foraminal stenosis is demonstrated. Left-sided foraminal narrowing is mild to moderate. No root impingement is apparent.

L5-S1: A minimal disc bulge does not compromise the spinal canal. Facet arthrosis is moderate on each side. Neural foraminal narrowing is mild to moderate bilaterally. No root impingement is evident.

IMPRESSION: No spinal canal stenosis or nerve root impingement.

Moderate bilateral facet arthrosis at L4-5 and L5-S1; facet arthrosis is mild bilaterally at L3-4.

The claimant testified that she became employed with a pharmacy, not connected with the respondents, in January 2021.

The claimant followed up with Charity Lowdermilk on April 26, 2021:

She has a history of low back pain since a work injury last year. Lately it has been a little worse. She can take Aleve

and it does help. Tylenol is not helpful. She does not like to take medications on a daily basis. She has noticed extremity swelling for months including bilateral ankles and hands....

Musculoskeletal: Thoracic back: She exhibits tenderness **(Bilateral muscles)**.

Lumbar back: She exhibits tenderness **(Bilateral muscles)**.

Comments: **Straight leg raise on the right is mildly positive for right buttock pain, otherwise negative.**

Charity Lowdermilk diagnosed “Chronic bilateral low back pain, unspecified whether sciatica present” and “Edema of both lower extremities.” Ms. Lowdermilk noted, “Flexeril 10 mg at bedtime as needed. Meloxicam 15 mg daily with food and GI precautions. Await labs. Peripheral edema most likely due to taking amlodipine.”

Charity Lowdermilk saw the claimant on September 21, 2021:

She is here to follow-up regarding bilateral lower back pain that radiates into the bilateral hips and into bilateral groin. This has been going on for greater than 1 year, ever since July 8, 2020, when she lifted on a client. She had an MRI of the L-spine about 1 year ago that was negative for stenosis or nerve root impingement but there was some arthrosis. She is having problems functioning at times due to the lower back pain. She was given prednisone taper at some point it was helpful. Meloxicam has not been helpful. She has done physical therapy 2 different times. She would like something done so that she does not have this pain all of the time. No new injuries....

X-ray bilateral hips read by Dr. Hagood: Mild degenerative changes.

Refer for MRI of the L-spine. Plan to refer to neurosurgery or pain management as indicated following the MRI of the L-spine. Naproxen 500 mg twice daily as needed for pain with food and GI precautions. Do not take with other NSAIDs. Refilled Flexeril for as needed use with sedation precautions.

An MRI of the claimant's lumbar spine was taken on October 15, 2021 with the following impression:

1. There are persistent degenerative changes across the L5-S1 level with patent canal and recesses. There is mild to moderate bilateral foraminal compromise accentuated by bulging and facet arthrosis as before.
2. There is bulging at L4-5 level with patent canal. There is stable mild left foraminal narrowing as above however.
3. Alignment is unchanged without acute osseous abnormality.

A pre-hearing order was filed on October 28, 2021. According to the text of the pre-hearing order, the claimant contended, "The claimant contends she sustained compensable injuries on July 8, 2020. She further contends the respondents have controverted this claim in its entirety for purposes of attorney's fees. The claimant reserves the right to pursue other benefits to which she may become entitled in the future. The claimant's attorney respectfully requests that any attorney's fees owed by claimant on controverted benefits paid by award or otherwise be deducted from claimant's benefits and paid directly to claimant's attorney by separate check, and that any Commission Order direct the respondent to make payment of attorney's fees in this manner. The claimant specifically reserves any and all other issues for future litigation and/or determination."

The parties stipulated that the respondents "controvert this claim in its entirety. The respondents contend the claimant reported having an injury to her lower abdomen and both her right and left hips and thighs on

July 8, 2020. The respondents provided her initial medical treatment; however, there were no objective findings of any injury and, therefore, the respondents controverted this claim. The respondents paid only initial benefits to and/or on the claimant's behalf, but they ceased such payments when her authorized treating physicians found no objective medical evidence of any injury whatsoever. The claimant retired from her employment on July 31, 2020. The respondents specifically reserve any and all other issues for future litigation and/or determination.”

The parties agreed to litigate the following issues:

1. Whether the claimant sustained a “compensable injury(ies) to her lower back, abdomen, and both her right and left hips and thighs on July 8, 2020, within the meaning of the Arkansas Workers’ Compensation Act (the Act).
2. If the claimant’s alleged injury(ies) is/are deemed “compensable” within the Act’s meaning, the extent to which she is entitled to medical and TTD benefits from the date of her alleged injury through a date yet to be determined.
3. Whether the claimant’s attorney is entitled to a controverted fee on these facts.
4. The parties specifically reserve any and all other issues for future determination and/or litigation.

The claimant received treatment visits at Advanced Interventional Pain Management beginning November 2, 2021. It was noted at that time, “Onset is June 2020 after lifting a patient....Mrs. Howell is a 57 year old female that suffers from chronic low back pain due to lumbar spondylosis. She has tried conservative treatments in the past and they were

unsuccessful. Her back pain is axial but occasionally will radiate to bilateral thighs. She is being scheduled for MMBs for RF of her lumbar spine today.”

Dr. Noland H. Hagood noted in part on November 19, 2021, “Barbara has been seeing Charity recently for some back pain. She had an MRI and she is seeing pain management. She has received some injections. This is doing better.”

After a hearing, an administrative law judge filed an opinion on April 28, 2022. The administrative law judge found that the claimant failed to prove she sustained a compensable injury. The administrative law judge dismissed the claim. The claimant appeals to the Full Commission.

II. ADJUDICATION

Act 796 of 1993, as codified at Ark. Code Ann. §11-9-102(4)(Repl. 2012) provides, in pertinent part:

- (A) “Compensable injury” means:
 - (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 also be established by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102(4)(D)(Repl. 2012). “Objective findings” are those findings which cannot come under the

voluntary control of the patient. Ark. Code Ann. §11-9-102(16)(A)(i)(Repl. 2012).

The employee has the burden of proving by a preponderance of the evidence that she sustained a compensable injury. Ark. Code Ann. §11-9-102(4)(E)(i)(Repl. 2012). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003).

An administrative law judge found in the present matter, “2. The claimant has failed to meet her burden of proof in demonstrating she sustained a ‘compensable injury’(ies) to her lower back, abdomen, and/or right and/or left hips and thighs as a result of the July 8, 2020, incident.”

It is the duty of the Full Commission to enter findings in accordance with the preponderance of the evidence and not on whether there is substantial evidence to support an administrative law judge’s findings. *Roberts v. Leo Levi Hospital*, 8 Ark. App. 184, 649 S.W.2d 402 (1983). The Full Commission enters its own findings in accordance with the preponderance of the evidence. *Tyson Foods, Inc. v. Watkins*, 31 Ark. App. 230, 792 S.W.2d 348 (1990). It is the Commission’s duty to translate the evidence of record into findings of fact. *Gencorp Polymer Prods. v. Landers*, 36 Ark. App. 190, 820 S.W.2d 475 (1991).

The Commission must strictly construe the provisions of Act 796 of 1993. See Ark. Code Ann. §11-9-704(c)(3)(Repl. 2012). The Arkansas Supreme Court has defined “strict construction” as narrow construction. *Lawhon Farm Servs. v. Brown*, 335 Ark. 272, 984 S.W.2d 1 (1998). Strict construction requires that nothing be taken as intended that is not clearly expressed. *Thomas v. State*, 315 Ark. 79, 864 S.W.2d 835 (1993). The doctrine of strict construction is to use the plain meaning of the language employed. *Holaday v. Fraker*, 323 Ark. 522, 915 S.W.2d 280 (1996).

In the present matter, the claimant contends on appeal that she sustained a compensable injury to her back on July 8, 2020. The claimant contends that she was prescribed muscle relaxers to include Cyclobenzaprine, and that these prescriptions equate to objective medical findings in accordance with *Fred’s Inc. v. Jefferson*, 361 Ark. 258, 206 S.W.3d 238 (2005). Indeed, muscle spasms can constitute objective medical findings to support compensability. *Estridge v. Waste Management*, 343 Ark. 276, 33 S.W.3d 167 (2000), citing *Continental Express, Inc. v. Freeman*, 66 Ark. App. 102, 989 S.W.2d 538 (1999).

Nevertheless, the claimant in the present matter did not establish a compensable injury by medical evidence supported by objective findings in accordance with Ark. Code Ann. §11-9-102(4)(D)(Repl. 2012). The claimant contends that she sustained a compensable injury to her back on

July 8, 2020. The claimant testified that she felt a “tightness” in her back while preventing a resident from falling. The claimant began treating with Charity M. Lowdermilk, APRN on July 9, 2020. Charity M. Lowdermilk reported that the claimant’s symptoms were “likely musculoskeletal pain from lifting patients.” Ms. Lowdermilk did not report any objective medical findings such as bruising, swelling, or spasms. Ms. Lowdermilk reported on July 16, 2020, “Lumbar back. She exhibits tenderness (Mild bilateral muscles).” “Tenderness” is not an objective medical finding establishing a compensable injury. *Rodriguez v. M. McDaniel Co.*, 98 Ark. App. 138, 252 S.W.3d 146 (2007).

The claimant began treating with Dr. Larey on July 22, 2020. Dr. Larey physically examined the claimant and reported, “No Palpable spasm noted TTP paracervical and upper thoracic.” The Commission interprets Dr. Larey’s note of “TTP” to mean, “tenderness to palpation.” Dr. Larey also reported, “Lumbar Spine: No swelling, bruising or wound present...No palpable spasm noted.” Dr. Larey prescribed Celebrex, Flexeril, and Ultracet, but he did not report that these medications were necessary to treat muscle spasms. Dr. Larey expressly informed the respondent-carrier on August 12, 2020, “I did not palpate/observe muscle spasms.”

The claimant informed Charity Lowdermilk on September 11, 2020, “She is having trouble sleeping and she cannot sit too long or walk for too

long due to muscle spasms.” The determination of witnesses’ credibility and the weight to be given their testimony are matters exclusively within the province of the Commission. *Cooper v. Hiland Dairy*, 69 Ark. App. 200, 11 S.W.3d 5 (2000). In the present matter, with regard to whether she was suffering from muscle spasms as a result of the alleged July 8, 2020 injury, the Full Commission finds that the claimant was not a credible witness. There is no probative evidence of record demonstrating that the claimant was suffering from muscle spasms. Ms. Lowdermilk again noted on September 11, 2020, “She exhibits tenderness (bilateral to midline).” “Tenderness” is not an objective medical finding establishing a compensable injury. *Rodriguez, supra*.

The diagnostic testing of record did not establish a compensable injury by medical evidence supported by objective findings. The result of a lumbar MRI taken September 28, 2020 was “No spinal canal stenosis or nerve root impingement. Moderate bilateral facet arthrosis at L4-5 and L5-S1; facet arthrosis is mild bilaterally at L3-4.” These MRI findings did not establish a compensable injury to the claimant’s back. An MRI on October 15, 2021 showed degenerative changes and bulging at L4-5. The MRI findings on October 15, 2021 did not establish a compensable injury allegedly occurring on July 8, 2020.

Finally, Charity Lowdermilk reported “Edema of both lower extremities” on April 26, 2021. If the claimant was suffering from edema in her lower extremities, this was not an objective medical finding establishing a compensable injury to the claimant’s back allegedly occurring on July 8, 2020. On September 21, 2021, Ms. Lowdermilk prescribed Cyclobenzaprine “as needed for muscle spasm.” We reiterate that it is the Commission’s duty to translate the evidence of record into findings of fact. *Gencorps Polymer Prods., supra*. There was no notation in the medical evidence demonstrating that any physicians or medical staff, including Ms. Lowdermilk, palpated or observed muscle spasms. *See Bittle v. Wal-Mart Associates, Inc.*, 2017 Ark. App. 639, 537 S.W.3d 753. In the present matter, there is no probative evidence of record demonstrating that the claimant was suffering from muscle spasms as a result of the injury allegedly occurring on July 8, 2020. The APRN’s prescription of Cyclobenzaprine on September 21, 2021 is not probative evidence demonstrating that the claimant was suffering from muscle spasm. *See Vickers v. Sudan Farming*, 2011 Ark. App. 676 (Ark. App. 2011).

After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not establish a compensable injury by medical evidence supported by objective findings. The Full Commission therefore finds that the claimant did not prove that she sustained a compensable

injury to her back. This claim for benefits is respectfully denied and dismissed.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

Commissioner Willhite dissents.

DISSENTING OPINION

After my de novo review of the record in this claim, I dissent from the majority opinion finding that the claimant did not establish a compensable injury by medical evidence supported by objective findings and, therefore, did not prove that she sustained a compensable injury to her back.

For the claimant to establish a compensable injury as a result of a specific incident, the following requirements of Ark. Code Ann. §11-9-102(4)(A)(i) (Repl. 2012), must be established: (1) proof by a preponderance of the evidence of an injury arising out of and in the course of employment; (2) proof by a preponderance of the evidence that the injury caused internal or external physical harm to the body which required medical services or resulted in disability or death; (3) medical evidence

supported by objective findings, as defined in Ark. Code Ann. §11-9-102 (4)(D), establishing the injury; and (4) proof by a preponderance of the evidence that the injury was caused by a specific incident and is identifiable by time and place of occurrence. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

The claimant was injured in a specific incident on or about July 8, 2020, during the course and scope of her employment. The claimant was employed by the respondent-employer as a rehabilitation instructor. The claimant testified that on July 8, 2020, she was assisting an obese patient up from a couch when the patient started falling. The claimant grabbed the patient to keep her from hitting the ground and eased her down to the floor. During this process, the claimant sustained injuries to her low back, lower abdomen, bilateral hips, and bilateral thighs. The claimant received medical treatment in the form of prescription medications, a TENS unit, and physical therapy.

The issue here is whether there is medical evidence supported by objective findings that the claimant suffered a low back injury. I find that there are objective findings of the claimant's low back injury in the form of muscle spasms. Muscle spasms are objective findings of the claimant's low back injury. *See Continental Express, Inc. v. Freeman*, 66 Ark. App. 102,

989 S.W.2d 538 (1999); *University of Arkansas for Medical Sciences v. Hart*, 60 Ark. App. 13, 958 S.W.2d 546 (1997).

The claimant was seen by Dr. Mark Larey at Chi St. Vincent Hot Springs on July 22, 2020. Dr. Larey noted that the claimant's prescriptions included Celebrex and Flexeril.

On her September 11, 2020, visit to Charity Lowdermilk, APRN, for back pain, the claimant gave a history of not being able to sit too long or walk too long due to muscle spasms. Ms. Lowdermilk noted that the claimant indicated that Tramadol and Flexeril had been helpful.

The claimant was prescribed Flexeril, which is used for treating muscle spasms, on multiple occasions as documented throughout the medical records, including the April 26, 2021 and September 21, 2021 visits to Ms. Lowdermilk when it specifically indicates that the prescription is to be taken for muscle spasms.

The facts in the present case are synonymous with those in *Fred's Inc. v. Jefferson*, 361 Ark. 258, 206 S.W.3d 238 (2005). In *Jefferson*, Ms. Jefferson was diagnosed with a back bruise and back strain. As treatment, Celebrex and Flexeril and physical therapy were prescribed. Following the logic expressed in *Estridge v. Waste Management*, 343 Ark. 276, 33 S.W. 3d 167 (2000), the Supreme Court held that it is reasonable to infer from the chronology of events that the medication and physical therapy were

prescribed to aid Jefferson and to treat her injury and that the medical evidence was supported by objective findings. The same logic was used more recently in *Melius v. Chapel Ridge Nursing Ctr., LLC*, 2021 Ark. App. 61, 6, 618 S.W.3d 410.

Using the same analysis here, I would find that the prescriptions for Flexeril were sufficient to establish that the claimant suffered from muscle spasms in her low back and that these muscle spasms constitute objective findings. Therefore, I find that the claimant has established by a preponderance of the evidence that she sustained a compensable low back injury.

For the foregoing reason, I dissent from the majority opinion.

M. SCOTT WILLHITE, Commissioner