

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H403137**

BOBBIE LASTER, EMPLOYEE	CLAIMANT
LITTLE ROCK SCHOOL DISTRICT, EMPLOYER	RESPONDENT
AR. SCHOOL BOARDS ASSOC. WCT, CARRIER/TPA	RESPONDENT

OPINION FILED NOVEMBER 6, 2025

Hearing before Administrative Law Judge, Steven Porch, on September 2, 2025, in Little Rock, Pulaski County, Arkansas.

Claimant was represented by Ms. Sheila Campbell, Attorney at Law, North Little Rock, Arkansas.

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

STATEMENT OF THE CASE

A full hearing was held on this claim on September 2, 2025. A prehearing telephone conference took place on June 4, 2025. A prehearing order was entered on the same day. An Amended Prehearing Order was entered on June 11, 2025, and subsequently entered into evidence as Commission Exhibit 1, without objection or amendment. The parties confirmed the stipulations and the issues at the hearing. The parties' stipulations are set forth.

STIPULATIONS

By agreement of the parties, the stipulations applicable to this claim are as follows:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. An employer/employee/carrier relationship existed on February 26, 2024, when Claimant allegedly sustained a compensable injury to her right shoulder.
3. Respondents have controverted the claim in its entirety.
4. The parties stipulate to Claimant's average weekly wage of \$885.80, entitling her to temporary total disability (TTD) benefit rate of \$591.00

weekly, and her permanent partial disability (PPD) benefit rate of \$443.00 weekly

The parties have identified the following issues to be adjudicated:

1. Whether Claimant sustained a compensable injury to her right shoulder by specific incident.
2. Whether Claimant filed timely notice of her claimed injury
3. Whether Claimant is entitled to reasonable and necessary medical treatment, mileage and benefits for her alleged injuries.
4. Whether Claimant is entitled to Temporary Total Disability (TTD) benefits from February 27, 2024, to a date to be determined.
5. Whether Claimant's attorney is entitled to a controverted attorney's fee.

All other issues are reserved.

CONTENTIONS

Claimant contents:

That she sustained a compensable injury in the course and scope of her employment of February 26, 2024, to her right shoulder from lifting for which she should be compensated.

Respondents contend:

That Claimant did not suffer a compensable injury to her right shoulder on February 26, 2024. Respondents contend that Claimant's need for medical treatment, if any, associated with her right shoulder is related to pre-existing and underlying problems and not an acute injury. Respondents further contend that they did not get notice of a claimed injury until May 8, 2024, and should not be liable for payment of any benefits prior to receipt of actual notice of a claimed injury. Respondents further assert that in the event compensability is found, the medical documentation does not support entitlement to TTD

benefits during the period of time in question. The Claimant continued to work for Respondent/Employer through March 27, 2024. Respondents have no medical documentation indicating an off-work status subsequent to that time.

(Addition) Based on post-date of injury wage information received from the Employer, it is Respondents' position that Claimant would not be entitled to temporary disability benefits in the event her claim is found to be compensable, as it appears that she continued to receive her salary. Respondents will be relying upon these records once this matter is scheduled for a hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Therefore, after a thorough consideration of the facts, issues, the applicable law, and the evidentiary record, 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. The Claimant has failed to prove by the preponderance of the evidence that she sustained a compensable right shoulder injury by specific incident.
4. Based on my finding of no compensability, the remaining issues of notice, reasonable and necessary medical treatment, TTD, and a controverted attorney's fee are moot, and will not be addressed in this opinion.

CASE IN CHIEF

Summary of Evidence

The record is made up of Claimant's Exhibit 1, medical records, consisting of 31 pages; Claimant's Exhibit 2, photographs, accident claim, and text messages, consisting of 10 pages; Respondents' Exhibit 1, medical records, consisting of 41 pages; Respondents' Exhibit 2,

correspondence, wage records, text messages, and reports, consisting of 33 pages; Commission Exhibit 1, Amended Pre-Hearing Order Filed June 11, 2025, consisting of 6 pages total. I have blue-backed into the record Claimant's and Respondents' post hearing briefs.

The Claimant was employed as a Child Nutrition Manager for the Respondent/Employer during the time of the alleged incident. Her job was to ensure that the children at her assigned school received breakfast and lunch. On February 26, 2024, Claimant testified that she was putting 25-pound breakfast bags onto a cart to deliver to the children at her assigned school. TR 14-18. When she placed the last bag onto her cart, she heard a pop in her right shoulder followed by immediate weakness in her right arm. *Id.* The Claimant testified that she spoke to her immediate supervisor Debra McElroy on the day of the alleged incident. *Id.* The Claimant further testified that another co-worker, Ms. Holly, was present when she spoke to Ms. McElroy about her alleged right shoulder injury. TR 17-18, 31. However, this co-worker witness was not present to testify at the hearing.

Claimant met with Dr. Lawrence O'Malley on the same day of her injury, February 26, 2024. CL. Ex. 1, pp. 1-5. According to Dr. O'Malley's progress note the Claimant came to see him for a "follow-up evaluation of her bilateral shoulder pain." *Id.* The note further states that her right shoulder pain has "continued to worsen." *Id.* Dr. O'Malley further noted that Claimant's right shoulder "has been bothering her for the past few years...." *Id.* He went on to state that Claimant does not "recall any traumatic injury." *Id.* Dr. O'Malley ordered an MRI of her right shoulder and placed her on an anti-inflammatory, Meloxicam. *Id.* The MRI was administered on March 4, 2024, where a complete "retracted tear is of the supraspinatus is seen with retraction to the level of the glenohumeral joint." CL. Ex. 1, pp. 6-7. The report classified the retracted tear as "High-grade near complete tear of most of the infraspinatus tendon is seen with only a few fibers of the

infraspinatus remaining.” *Id.* The report further read that “Moderate tendinosis of the superior fibers of the subscapularis is seen with articular sided tear of the superior fibers. The teres minor tendon is intact. Moderate supraspinatus and infraspinatus muscle atrophy is seen.” *Id.*

The Claimant eventually had surgery to repair her right shoulder rotator cuff tear by Dr. O’Malley on March 27, 2024. CL. Ex. 1, pp. 13-14. The Claimant had a follow-up visit with Dr. O’Malley after her rotator cuff surgery on April 11, 2024. *Id.* at 15-19. There the Claimant reported that she was doing well. *Id.* Dr. O’Malley ordered Claimant to start therapy and to continue to do elbow range of motion exercises. *Id.* Claimant testified at the full hearing that the surgery did in fact benefit her. TR 37.

Debra McElroy, Claimant’s direct supervisor, testified that she does not recall Claimant telling her that she injured her right shoulder until May 8, 2024, when Claimant signed a Form-N. TR 82-83, 85-90, Resp. Ex. 2, p. 31. Stephanie Walker-Hynes, Director of Nutrition for Respondent/Employer, testified that she was not made aware, nor was it her job to be made aware of workers’ compensation issues except for specific incidents, i.e. ambulance being called, injury resulting in finger, or blood loss, etc. TR 56-57. Ms. Hynes testified that she was only made aware of the claim because months have passed since the incident occurred. TR 59-62. Ms. Hynes also testified that Claimant was management and had a manager manual on the procedure for filing a workers compensation claim. TR 67-69, 71, 73-77. She further testified that the school district does an annual review of the policies and procedures with management. *Id.* Despite this testimony the Claimant stood firm on her claim that she reported her injury to Ms. McElroy. TR 99-102. But did admit that she did not know that she had to make a workers’ compensation claim, not only with Ms. McElroy, but also with Ms. Tracy Richardson, Ms. Hynes point of contact for workers compensation claims involving Claimant. *Id.*

Adjudication

A. Whether Claimant sustained a compensable injury to her right shoulder by specific incident.

Under Arkansas Code Annotated § 11-9-102(4)(A)(i) (Repl. 2012), which I find applies to the analysis of Claimant’s alleged injuries, 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). 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.” *Id.*

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).

Claimant’s testimony is never considered uncontroverted. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). 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.*

Claimant has not proven by the preponderance of the evidence that she has sustained a compensable right shoulder injury that arose out of and in the course of her employment by specific incident. The Claimant testified that she spoke to her direct supervisor, Debra McElroy, about her alleged right shoulder injury in the presence of another co-worker on the date the incident occurred. TR 14-18, 31. However, the Claimant did not present this alleged witness to testify to those facts. *Id.* Nor did Ms. McElroy recall any such conversation had ever taken place. TR 82-83, 85-90.

Moreover, my review of Claimant's medical records show that she never mentioned her work-related incident concerning the lunch bags to her healthcare providers. Rather, according to Dr. O'Malley's progress note dated the same date as her work-related incident, Claimant's visit was a "follow-up evaluation of her bilateral shoulder pain." CL. Ex. 1, pp. 1-5. Dr. O'Malley further stated in his progress note that she claimed her right shoulder pain has "continued to worsen," and that her right shoulder has been bothering her for the past two years. *Id.* Dr. O'Malley also noted that the Claimant described "night pain" that would prevent her from sleeping, and that Claimant does "not recall any traumatic injury." *Id.* I credit Dr. O'Malley's progress note.

Based on Dr. O'Malley's progress note the Claimant has been suffering from worsening right shoulder pain for the past few years. The pain has been of such a nature as to cause the Claimant to lose sleep **even before the alleged work-related incident**. The Claimant has the burden to prove a compensable work-related injury, and she has failed to meet that burden. I do not believe Claimant's right shoulder injury, a torn rotator cuff, was the result of the alleged February 26, 2024, work-related incident. Thus why, I find that the Claimant has failed to prove

by the preponderance of the evidence that she has sustained a compensable right shoulder injury by specific incident. Therefore, her claim must fail. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

MISCELLANEOUS ISSUES

Based on my previous finding of no compensability, the remaining issues regarding notice, reasonable and necessary medical treatment, temporary total disability benefits, and a controverted attorney's fee are moot and will not be addressed in this opinion.

CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, the parties shall act consistent with this opinion.

IT IS SO ORDERED.

Hon. Steven Porch
Administrative Law Judge