

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H404600

DENA S. MCLEVAIN, EMPLOYEE CLAIMANT

SPRING CREEK HEALTH & REHAB,
EMPLOYER RESPONDENT

ARKANSAS SELF-INSURED TRUST FUND/
CANNON COCHRAN MANAGEMENT SERVICES, INC.,
CARRIER/TPA RESPONDENT

OPINION FILED FEBRUARY 6, 2026

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant represented by the Honorable Gary Davis, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the Honorable Melissa Wood, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On November 12, 2025, the above-captioned claim came on for a hearing in Little Rock, Arkansas. Previously, a pre-hearing telephone conference was held on this matter on August 27, 2025. That same day, I entered a Pre-hearing Order following my telephone conference with the parties. Said order was admitted into evidence along with the parties' respective pre-hearing information filings as well as Commission's Exhibit 1 without objection.

Stipulations

During the pre-hearing telephone conference, and/or at the time of the hearing, the parties agreed to the following stipulations, which I found to be reasonable and applicable in this case:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.

2. The employee-employer-insurance carrier relationship existed on or about April 7, 2024, when the Claimant sustained a compensable work injury to her left ankle.
3. The Respondents accepted this claim as compensable and have paid appropriate medical benefits.
4. The Claimant's average weekly wage on the day of her injury was \$417.25. Her compensation rates are \$278.00 and \$209.00.
5. The Respondents have controverted this claim for additional benefits in the form of temporary total disability compensation.
6. Therefore, all issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

Issues

The parties agreed to litigate the following issues:

1. Whether the Claimant is entitled to additional temporary total disability from May 1, 2024, until November 21, 2024 (with the exception of the period she worked at Dollar General).
2. Whether the Claimant's attorney is entitled to a controverted attorney's fee.

Contentions

The Claimant's and Respondents' contentions are set forth in their respective response to the Pre-hearing Questionnaire. Said contentions are as follows:

Claimant:

The Claimant contends that she sustained an admittedly compensable left ankle/foot injuries on April 7, 2024. The Claimant contends entitlement to payment of temporary disability benefits beginning May 1, 2024, through November 21, 2024, (except for a short period of time

when she worked for Dollar General in a part-time capacity). These benefits have been controverted for purposes of attorney's fees.

The Claimant's attorney respectfully requests that any attorney's fees owed by the Claimant on controverted benefits paid by award or otherwise be deducted from the Claimant's benefits and paid directly to the Claimant's attorney by separate check, and that any Commission Order direct the Respondents to make payment of attorney's fees in this manner.

Respondents:

The Respondents contend that all appropriate benefits have been and are continuing to be paid with regard to this matter. As indicated above, the Claimant was released as having reached maximum medical improvement with Dr. Martin on November 21, 2024. The Respondents have no medical documentation taking the Claimant off work subsequent to her full duty release and, as such, deny her entitlement to ongoing temporary disability benefits. This will be re-evaluated in the event the Claimant's counsel is able to produce medical documentation supporting his assertion regarding temporary total disability/TTD entitlement.

Pursuant to the Respondents' letter to my office on October 8, 2025, they amended their contentions to state, in relevant part: ... Claimant is seeking TTD from May 1, 2024, through November 21, 2024. Respondents were providing light duty work to Claimant, but she was terminated for cause. As such, it is our position that she would not be entitled to TTD during the timeframe sought."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including the medical reports, the documentary evidence, and other matters properly before the Commission, and after having had an opportunity to listen to the testimony of each witness and observe their demeanor, 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 proposed stipulations set forth above are hereby accepted.
3. The Claimant proved by a preponderance of the credible evidence her entitlement to temporary total disability compensation from May 1, 2024, through November 21, 2024 (except for the days she returned to work).
4. The parties stipulated that the Respondents have controverted this claim for additional temporary total disability benefits. Therefore, the Claimant's attorney is entitled to a controverted attorney's fee.
5. All issues not litigated herein or addressed in this Opinion are reserved under the Act.

Summary of Evidence

The hearing witnesses were the Claimant, Dena S. McLevain, and Tommi Kirkland.

The record consists of the hearing transcript of November 12, 2025, and the exhibits held therein. In addition to the Pre-hearing Order discussed above, the exhibits admitted into evidence in this case consisting of Claimant's Exhibit 1 which includes the Claimant's documentary evidence of medical records and the non-medical documents consisting of 99 numbered pages, exclusive of two index pages; Respondents' Exhibit 1 consisting of 14 numbered pages of medical records; and Respondents' Exhibit 2 comprising of 10 numbered pages of non-medical records, exclusive of the cover sheet.

Testimony

As of the date of the hearing, the Claimant was 47 years of age. She has some technical college and holds other assistive medical certification. According to the Claimant, on April 7,

2024, she was working for the respondent employer, Spring Creek Health and Rehab, when she sustained injuries to her left leg, ankle, and foot area. At that time, she had worked for Spring Creek since March 8, 2024, as a certified nursing assistant/CNA.

The Claimant's employment duties entailed direct care for the residents. Specifically, she assisted patients with their activities of daily living and hygiene care, such as showers, brushing their hair and teeth, nail care, and with their meals, and other personal hygiene needs. She confirmed that she had to help with the physical handling and mobility of the patients. The Claimant testified that they had to do a lot of transferring patients back and forth between their beds, wheelchairs, and other assistive devices.

On the day of her work-related injury, the Claimant testified that she hurt herself while moving a resident up in the bed. She testified her work injury occurred as she and another aide were trying to move a resident to a comfortable position in the bed. The Claimant explained precisely how her ankle injury happened: "When I stepped – because you step when you move – you have to lift them off of the bed where they're no longer making contact, and then slide them up towards the pillow, and you step in that process, and when I stepped, my ankle popped seven times."

The Claimant received medical treatment after her injury took place. She was taken off work beginning May 1. According to the Claimant, she tried to go back to work after checking with her workers' compensation doctor. Per the Claimant, she was told not to lift another person or do any heavy lifting, which amounts to light duty work. The Claimant confirmed that she made management aware of her restrictions and they worked with her for a while. According to the Claimant, during this period of time, she had to be careful not to put undue weight on her ankle. She confirmed that Spring Creek allowed her to perform her employment duties from a wheelchair.

The Claimant testified that the HR manager and her supervisor both said she needed to perform her work duties from a wheelchair. She explained that during that time, management had her making beds, doing nail care, which she was unable to do successfully. The Claimant claimed that her list of duties included chasing patients down to get their blood pressure before a certain time in the morning. She essentially testified that this made it difficult for her to achieve her work responsibilities from a wheelchair.

She was asked to describe what happened during the meeting regarding her termination. Specifically, per the Claimant, she was called into the HR manager's office, which is very small room. The Claimant explained:

A. ... and there were five or six people. There was the Director, the Administrator, Director of Nursing, Assistant Director of Nursing, the HR Manager, and my supervisor were all in this room, and I believe it was the Administrator was telling me I had a write-up from two months ago -- two months before that time frame; another write-up from three months before that time frame; another write-up from three weeks before that time; and then one from that very day.

The Claimant testified that she was told for those reasons she was going to be terminated. She testified that management told her she needed to sign the documentation. According to the Claimant, she has worked in management previously, and her experience has taught her that when you write someone up, you have a conversation with them when the event occurs. The Claimant essentially testified that you do not wait two months after the alleged incident to bring up the reason for writing them up because you need for the person to correct their behavior of what they are doing incorrectly. She testified that only one of these write ups were relevant because the other two were outdated. Although the Claimant has gained a lot of experience working in management, she confirmed that she was not working in management at that time of her termination. However, the Claimant testified that she managed a martial arts school for four years and a Smoothie King for two years.

Counsel asked the Claimant to explain how her termination meeting with management ended. The Claimant answered:

The meeting was concluded when it was clear that I was definitely terminated. There was no discussion. They weren't open to hearing any explanation, right? There was no guidance. There wasn't any counseling, you know, "Dena's, this is what you are doing wrong. This is what we do we need you to do better. We'll follow-up with you in a certain timeframe." There wasn't-- none of that done. I was just fired, and so I got up to dismiss myself and when I did, I was told that I had to sign those three, and I said, "I'm fired and those are outdated."

She confirmed that on page 99 of her exhibit, the document is entitled "Termination of Employment" which has a checkmark indicating that she was discharged due to "Inability to Perform." She confirmed that after she was terminated, she applied for jobs at various places. The Claimant confirmed that she had some stints of employment at McDonald's. However, the Claimant confirmed that she had some difficulty with that job physically. Specifically, she testified, "When they wanted me to reach up and grab the boxes off of the top shelf -- sometimes someone would help me but this one particular day one of the managers had an issue with it." She admitted that during this period of time and even continuing now, she has continued to receive medical treatment for her injury. The Claimant admitted that she was aware that she was found to be at maximum medical recovery for her injury in November 2024 by her treating physician. According to the Claimant, she continues to receive medical treatment for her injury. However, the Claimant confirmed she is paying for her current medical care with her own personal insurance because the insurance people would not authorize her for additional treatment.

On cross-examination, the Claimant confirmed that the Respondents took her deposition on August 8, 2025. The Claimant confirmed that on April 7, 2024, the day of her injury, she was moving a patient from the bottom of the bed up toward the top of it. Her injury happened when she picked up her right foot to step and felt a pop in her left foot. The Claimant explained that it

began before that, but in moving the patient from the foot to the head of the bed, her “ankle popped.” She agreed that she worked on light duty for Spring Creek from April 7, the date of her injury up until May 1. During this time, the Claimant confirmed that she underwent a lot of physical therapy. She admitted that some of her physical therapy appointments were taken during her work shift. The Claimant further admitted that during her deposition testimony, she testified that she did well on light duty because she only had to cut the patients’ nails and roll the silverware.

Regarding her termination, the Claimant confirmed that Tommi Kirkland, the Director of Nursing, was present in the office on the day (May 1) of her termination. She agreed that during this meeting she was told she had three write-ups, and she told them to skip the first two because she wanted the dates. At that point, the Claimant testified that she wanted to focus on the recent write-up, which was from that morning. She admitted that when she testified during her deposition, she stated that she did not know what the other two write-ups were for and she did not read them.

The Claimant admitted that she worked at Dollar General following her termination. She confirmed that she testified during her deposition that she had worked there for a month, from early September until early October. However, the Claimant explained that later that later Dollar General confirmed that she had worked there for only three weeks. Per the Claimant, she quit working there because she was being harassed by her manager. According to the Claimant, her manager was aware that she had reported her to management for stealing from the store.

Nevertheless, under further questioning, the Claimant confirmed that she had difficulty with the job physically because she had to stand at the register and stock nearby shelves. She testified that she was allowed to handle the small packages. Her working hours were from noon until 4:00 p.m., four days a week. The Claimant confirmed that she continued to apply for jobs at

various places. She confirmed that she worked at McDonald's for a short period of time. Next, the Claimant started working at Home Instead, in July 2025. However, the Claimant no longer works at Home Instead. According to the Claimant, she left that job because her ankle had not completely healed and she believed the patients were putting her at a fall risk. Per the Claimant, she was afraid of reinjuring her ankle while all of this was still going on, or in general.

As of the date of the hearing, the Claimant was not working. Counsel for the Respondents showed the Claimant one of Dr. Martin's medical reports dated September 13, 2024. Although this report indicated that the Claimant told them that she continued to have some tightness, and that her pain had resolved, the Claimant denied that this was not correct. Per this report, the Claimant was asking to go back to full duty work at that point. The Claimant explained that she always wanted to go back to full-duty work. However, the Claimant testified that this was not a conversation she had with Dr. Martin and she does not know why this information would be in the report. The Claimant confirmed that she was aware that Dr. Martin released her to full duty without any restrictions on September 13, 2024.

On redirect examination, the Claimant again confirmed that she worked for Dollar General for about three months and had to leave because her manager was piling work duties on her, which she was unable perform after she reported her for stealing. According to the Claimant, she informed upper management about what was going on because they have a zero tolerance for harassment. Per the Claimant, although management told her they would take care of it, they did not do anything and as a result, she removed herself before hurting herself further. She worked 20 hours a week at Dollar General. Her hourly rate of pay was \$11.00 an hour. The Claimant did not recall her exact pay while working for Spring Creek. However, she testified that the pay was very similar to what she was making at Dollar General.

Tommi Kirkland

Ms. Kirkland testified that she is the Director of Nursing at Spring Creek Health. She is responsible for the supervision of the entire Nursing Department. According to Ms. Kirkland, her job duties entail supervising the duties of the positions for the nursing/medical staff including the registered nurses, licensed practical nurses, certified nursing assistants, and nurse assistants. Ms. Kirkland confirmed that in her position, she is involved in work-related injuries for the company when employees are released to return to work with physical restrictions. She confirmed that it is their policy to provide accommodation for workers' compensation cases. Ms. Kirkland verified that she is familiar with the Claimant. She has worked for Spring Creek since September of 2018.

Next, Ms. Kirkland was shown a copy of Respondents' Exhibit No. 2. She confirmed that this was a list of duties based off of the Claimant's restrictions while on light duty work. Ms. Kirkland testified that her CNA supervisor modified the Claimant's job duties based off her updated paperwork. On June 6, 2024, Dr. Martin indicated that the Claimant's physical restrictions included no more than 20 minutes of standing per hour, no climbing ladders, or stairs. She explained that they had the Claimant's original paperwork of what her job duties were, and then she went back for an appointment and brought back new restrictions. According to Ms. Kirkland, at first the Claimant was working with crutches, and afterwards they talked about the standing no longer than 20 minutes, and that is when they offered her the wheelchair. Ms. Kirkland specifically denied that she asked the Claimant to do anything outside of her physical restrictions.

She testified that the Claimant was making the same pay while working on light duty. Ms. Kirkland confirmed that had the Claimant not been terminated, she would have been able to continue working on light duty until she was released to full duty. Although Ms. Kirkland was

unable to recall whether the Claimant was terminated on May 1, she confirmed that she was in the office and involved in the termination process.

Ms. Kirkland confirmed that page 4 of the exhibit is dated April 30, 2024. This form says that the Claimant was cited for “poor work performance” because she left snacks in the residents’ rooms unopened/and or not offered to them. She explained that this means the snacks were passed but they were left on the table or near the resident and were not opened or offered to the resident. According to Ms. Kirkland, the facility provides snack rotations for the residents showing weight loss and/or with diabetes. She testified that the company violation against the Claimant indicates that when she dispersed the snacks to the residents, she left them on the table or near the resident and they were unopened or not offered to the resident.

Next, Ms. Kirkland was shown page 5 of the exhibit and asked to read over it and explain why it was a violation of policy. Specifically, she insisted that the Claimant did not chart the snacks that she passed prior to leaving at the end of her shift. It reads: “States on the 29th that her charting log-in did not work and that she was told by her supervisor to see HR or HR Director on April 30/4-30 in the morning to fix it, but the employee failed to do so. States that on April 29/4-29 that she had been charting under someone else’s long-in, which is a violation of policy. Ms. Kirkland explained that this was a violation of policy in the form of false documentation.

On page 6 of the exhibit, again it reads: “Poor work performance.” She explained that the Claimant violated company policy because she did not complete her job duties of clipping and filing the nails and shaving for both the men and women, and the non-diabetic residents. Ms. Kirkland explained that older women must be shaved because unfortunately, they tend to grow a little bit of hair as they get older in age. She confirmed that she does not dispute that all three of the policy violations are dated the same date, April 30. Per Ms. Kirkland, a lot of this has to do

with timing. According to Ms. Kirkland, the Claimant had a lot of doctors' appointments and physical therapy treatments, which made it exceedingly difficult to sit down and do this. She claimed that they normally do not conduct disciplinary actions over the phone. Per Ms. Kirkland, their policy is to go over policy violations on an in-person basis and there is always a witness involved.

Ms. Kirkland confirmed that the next page is 7, and it is entitled "Termination of Employment," and it is checked that it was an involuntary termination and the other check reads, "Inability to Perform." Ms. Kirkland testified that there was a list of reasons for terminating an employee, and the one that most closely explained why they were terminating the Claimant was checked. However, she denied that the Claimant was terminated due to her work-related injury, because they had accommodated her light duty work restrictions. Instead, Ms. Kirkland maintained that the Claimant was terminated due to her failure to perform her job duties.

On cross-examination, Ms. Kirkland again confirmed that all three write-ups were dated April 30, 2024. She confirmed that at least the first items had taken place weeks before April 30. Ms. Kirkland also confirmed that the Claimant was not made aware of these things until April 30, 2024. She confirmed that although there were a number of reasons given for the Claimant being fired, but the singular reason given was inability to perform. Ms. Kirkland refused to confirm or deny that the Claimant was given the opportunity to explain the write-ups because it was documentation all piled up at one time after the fact.

Under redirect examination, Ms. Kirkland testified that the Claimant was hired on March 8, 2024, and the date of the occurrence was April 30; therefore it would have been impossible for the write-ups to be something from two months ago as the Claimant had maintained. She confirmed that the write-ups actually occurred on April 30, 2024, with one of them having occurred

on April 29. Ms. Kirkland confirmed that she believes it was well documented about the Claimant having failed to perform her job duties leading to her termination. She confirmed that the Claimant could have been terminated for falsifying documentation based solely on this policy violation.

On recross examination, Ms. Kirkland asserted that the Claimant should have been able to perform her job duties from her wheelchair within an 8-hour period.

Medical Evidence

A review of the medical records shows that on April 7, 2024, the Claimant was seen at the Cabot Emergency Hospital with a clinical indication of pain, after her left ankle popped at work. The Claimant underwent an XR of her left ankle, with an impression of: "No fracture or dislocation." Notes from this procedure show that this document was electronically signed by Amit Mittal, MD. He recommended that if there is continued concern, follow-up with radiographs or MRI should be considered for more complete assessment. The Emergency Department provider was Dr. Brian C. Baird. He provided the Claimant with special instructions to return if worsening or increasing symptoms and recommended that the Claimant follow-up with her primary care physician. According to these records, Dr. Baird placed the Claimant on light duty work starting on April 7. Dr. Baird specifically instructed the Claimant to refrain from weight-bearing in left leg/ankle until cleared by a physician or other medical provider.

On April 26, 2024, the Claimant sought medical treatment from a clinic at UAMS, in Little Rock, Arkansas under the care of Dr. Robert Daniel Martin. At that time, Dr. Martin ordered an MRI of the Claimant's left ankle before making any recommendations.

An MRI was performed of the Claimant's left ankle on May 6, 2024, the following Impression:

1. Chronic tear of the anterior talofibular ligament with scarring.
2. Mild tenosynovitis of the tibial posterior and mild sprain of the

deltoid ligament.

3. Subtle T2 hyperintense single with trace fatty infiltration in the visualized soleus and flexor hallucis longus muscle, suggesting denervation changes.

4. Incidentally noted 3.6 x 1.4 cm benign subcutaneous lipoma in the medial aspect of hindfoot.

The Claimant returned to Dr. Martin's office for a follow-up visit on May 6, 2024, for evaluation of her left lower extremity following her MRI. She provided Dr. Martin with a history of having injured her ankle on April 7 at work while lifting a patient on her tip toes. According to this report, the Claimant stated that she felt a distinct pop in the posteromedial ankle and had immediate pain and difficulty with bearing weight. The Claimant further reported that she was in a wheelchair, and then she went to crutches for several days. At that time, the Claimant was in regular shoes but was experiencing pain with standing and/or walking. Dr. Martin found that on physical examination the Claimant was able to do a single heel rise, but this produced pain, she had tenderness with deep palpation of the posterior tibial tendon. She was nontendered laterally. Dr. Martin opined that the MRI of the Claimant's left ankle was reviewed and interpreted by him and was consistent with some tendinitis, tenosynovitis of the posterior tibial tendon. No intra-articular abnormality noted. His assessment was "Posterior tibial tendinitis left side workers' compensation following injury/sprain." Dr. Martin recommended that the Claimant use a boot walker immobilization for a month and placed her on light duty work. He also gave her physical restrictions of no standing more than 20 minutes of standing per hour, no climbing ladders or stairs, and she must be able to wear her boot walker. At that point, Dr. Martin planned to start the Claimant on physical therapy and placed her in a lace-up ankle brace.

It appears that on May 7, 2024, the Claimant contacted via a telephone call to Dr. Martin's office for a copy of his medical notes directing her to wear a boot, and his official diagnosis.

On June 6, 2024, the Claimant returned to Dr. Martin's office for a follow-up visit of her left ankle posterior tibial tendon spur. The Claimant reported some improvement with boot immobilization; she was still having some posteromedial pain with prolonged standing. Per these clinic notes, the Claimant had been doing some home exercises. Dr. Martin's assessment was "Workers' compensation, left ankle sprain, posterior medial improved but still not completely better." He recommended that the Claimant continue to wear the boot walker, ankle support orthosis and start formal physical therapy. Also, Dr. Martin continued the Claimant's light duty work restrictions. *He opined that the Claimant was not yet at maximum medical improvement.*

Also, on June 6, 2024, the Claimant underwent initial evaluation for physical therapy at Ortho Rehab & Specialty Centers Farrer Physical Therapy due to her left ankle injury. Joseph Farrer, physical therapist, evaluated the Claimant. She complained of severe left ankle pain. The physical therapist observation included "Antalgic gait pattern. Decreased WB on involved side ankle brace." He noted that on Palpation: "Tenderness. Patient has an increased of tenderness to touch in the following structures: Anterior ankle ATF." Farrer stated that the Claimant was educated about her injury and was involved in the development of goals. He opined that the Claimant had a good prognosis with PT. Possible talar subluxation." Farrer recommended that the Claimant undergo physical therapy sessions three times a week, for four weeks with treatment to consist of Medical Exercise Training, Home Exercise Program, and Patient Education. The first treatment included full tissue examination, patient education, general, and coordination combination activity.

The Claimant underwent physical therapy sessions from June 6 through July 9, 2024.

Dr. Martin saw the Claimant in follow-up clinic for her compensable injury on July 12, 2024. The Claimant reported that physical therapy had improved her symptoms. However, she

was still complaining of some anterior and posteromedial ankle pain, but still she had some inability to jump. Dr. Martin recommended that she continue therapy for another month. He also continued her light-duty work restrictions and stated that on the next visit he would anticipate releasing her to full duty without restriction. However, Dr. Martin opined that he did not anticipate a permanent partial impairment rating.

The Claimant continued with her physical therapy sessions directed by Dr. Martin from July 15, 2024, through August 2, 2024.

Dr. Martin saw the Claimant on August 9, 2024, in a follow-up clinic for her left ankle injury. She reported that she was working with formal physical therapy and was slowly improving. However, the Claimant stated that she still cannot step up stairs reliably and that after 15 to 20 minutes she had enough pain to justify sitting down. At that time, the Claimant was not back at work, but she continued on light duty. Left ankle examination by Dr. Martin revealed that the Claimant had tenderness across the ankle mortise, posterior tibial tendon, and pain with positive single left leg raise. His assessment was “45-year-old female, workers compensation, left posterior tibial tendon strain.” Dr. Martin continued the Claimant on formal physical therapy and directed her to return to work on light duty restrictions, which included standing for 30 minutes to an hour with no climbing stairs or ladders.

Following her office visit with Dr. Martin, the Claimant continued with formal physical therapy sessions from August 13, 2024, through September 5, 2024.

On September 5, 2024, the Claimant was seen for a final follow-up evaluation at the Ortho Rehab & Specialty Center Farrer Physical Therapy due to pain in her left ankle and joints of the left foot. At that time, Farrer, authored a Discharge Note. Farrer stated that the Claimant was compliant with her physical therapy sessions and no longer complained of pain.

Dr. Martin evaluated the Claimant on September 13, 2024, due to her workers' compensation injury of a diagnosis of a left posterior tibial tendon sprain. Per these notes, the Claimant was seen in follow-up for her injury. *At that time, overall, the Claimant had improved, but she continued to feel tightness in the posteromedial of her ankle. She reported that her pain had resolved and she was ready to go back to work full duty.* Dr. Martin stated that on physical examination of her ankle, the tenderness over the distal posterior tibial tendon had significantly improved, and that her skin was intact with no new changes. His assessment was "45-year-old workers' compensation, left ankle posterior tibial tendon sprain." Dr. Martin opined:

Plan: The patient is much improved, she will be allowed to return to work full duty without restriction, *she is not yet at maximum medical improvement*, follow-up in a month for final check. I do not anticipate a permanent partial impairment rating or any permanent work restrictions.

As a result, on that same date, Dr. Martin authored a return-to-work slip stating that the Claimant could return to work full duty with no restrictions.

The Claimant returned for an office visit with Dr. Martin on October 17, 2024. He opined that the Claimant had continued with improvement in the posterior tibial. However, Dr. Martin stated that she had developed plantar fasciitis, this was worse in the mornings and with prolonged standing. The Claimant remained in regular shoes, and she had been without restrictions at work. He educated the Claimant on plantar fasciitis and returned her to full duty work.

Also, on October 17, Dr. Martin wrote in a clinic note, "Dena McLevain/the Claimant was seen in my office on October 17, 2024. She may return to work full duty with no restrictions..."

The Claimant saw Dr. Martin on November 21, 2024, for an office visit due to her compensable workers' compensation injury of "*a left posterior tibial tendon sprain.*" She presented in follow-up clinic with her regular shoes on with no pain in her heel or ankle. The

Claimant reported that she was happy with her progress. At that time, she reported that since her last visit she had no recent problems to report. On physical examination of the Claimant's left foot, Dr. Martin opined "Left foot examination is benign, she has no areas of tenderness, no swelling, alignment equal to contralateral side, foot, well perused." His assessment was that the Claimant's "left ankle posterior tibial tendon sprain and plantar fasciitis" had resolved. Dr. Martin's plan included the following: "*The patient is placed at maximum medical improvement, she has a 0% permanent partial impairment rating based on the 4th edition AMA guidelines, she has no permanent work restrictions, she will follow-up with me as needed.*"

As a result, on November 21, 2024, Dr. Martin wrote in a letter to Whom it May Concern: "It is my medical opinion that Ms. Dena McLevain/the Claimant may return to work as full duty..."

Adjudication

A. Temporary Total Disability Compensation

The Claimant sustained an admittedly compensable injury to her left ankle/foot on April 7, 2024. She is seeking temporary total disability compensable from May 1, 2024, through November 21, 2024, for her compensable injury. However, the Respondents have alleged that the Claimant is not entitled to temporary total disability compensation for her compensable work-related left ankle injury because they were providing light-duty work to the Claimant, but she was terminated for cause. As such, it is the Respondents' position that the Claimant would not be entitled to temporary total disability compensation during the timeframe sought.

The respondent-employer has alleged the Claimant's employment was terminated for purported violations of company policies as outlined above and should be barred from recovery of temporary total disability compensation. However, I am unable to find termination for cause

to be a bar to an award of temporary total disability compensation. *Superior Industries v. Thomaston*, 72 Ark. App. 7, 32 S.W. 3d 52 (2000).

An employee who has suffered a scheduled injury is entitled to compensation for temporary total disability during her healing period or until the employee returns to work, whichever occurs first. *Wheeler Constr. Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W.3d 822 (2001). The healing period is that period for healing of the injury which continues until the employee is as far restored as the permanent character of the injury will allow. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). If the underlying condition causing the disability has become more stable and if nothing further in the way of treatment will improve that condition, the healing period has ended.

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that the Claimant proved her entitlement to temporary total disability from May 1, 2024 through November 21, 2024, except for the brief periods she returned to work.

In the present matter, the Claimant sustained an admittedly compensable injury to her left ankle/foot on April 7, 2024, while lifting a patient. The Respondents accepted the claim and have paid all appropriate medical benefits on the claim.

Specifically, the Claimant came under the care of Dr. Martin, and he ordered an MRI of the Claimant's left ankle. Dr. Martin reviewed the MRI of the Claimant's left ankle, and he opined that it was consistent with some tendinitis, tenosynovitis of the posterior tibial tendon. No intra-articular abnormality noted. His assessment was "Posterior tibial tendinitis left side workers' compensation following injury/sprain." Dr. Martin ordered formal physical therapy, a boot, and a medication regimen for the Claimant's left ankle injury. He placed the Claimant on light duty. The Claimant has not returned to work during the period of time in question, (except for the days

she returned to work), and she continued in her healing period from the day of her injury until November 21, 2024. At that point, Dr. Martin opined the Claimant was maximum medical recovery for her compensable left ankle injury.

Under these circumstances, the evidence before preponderates that I am compelled to find that the Claimant proved her entitlement to temporary total disability compensation from May 1, 2024, through November 21, 2024, except for the days that she worked.

Of note, the Claimant's attorney made a correction regarding her employment with McDonald's. The McDonald's information is from 2025 and not within the parameters of the period that she is asking for temporary total disability compensation. However, it appears that her employment with Dollar General is applicable to the time frame for which temporary total disability compensation is requested.

B. Attorney's Fee

The parties stipulated that the respondents have controverted this claim in its entirety. As such, the Claimant's attorney is entitled to a controverted attorney's fee on all indemnity benefits awarded herein to the Claimant, pursuant to Ark. Code Ann. §11-9-715 (Repl. (2012)).

AWARD

The Respondents are directed to pay benefits in accordance with the findings of fact set forth herein this Opinion.

All accrued sums shall be paid in lump sum without a discount, and this award shall earn interest at the legal rate until paid, pursuant to Ark. Code Ann. §11-9-809 (Repl. 2012). Pursuant to Ark. Code Ann. §11-9-715 (Repl. 2012), the Claimant's attorney is entitled to a 25% attorney's fee on the indemnity benefits awarded herein.

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This fee is to be paid one-half by the insurance carrier and one-half by the Claimant.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge