

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G807060

TINA L. MELIUS, EMPLOYEE CLAIMANT

CHAPEL RIDGE NURSING CENTER, LLC,
EMPLOYER RESPONDENT

AMTRUST NORTH AMERICA
INSURANCE CARRIER/TPA RESPONDENT

OPINION FILED SEPTEMBER 28, 2021

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

Claimant represented by the HONORABLE MATTHEW KETCHAM,
Attorney at Law, Fort Smith, Arkansas.

Respondents represented by the HONORABLE WILLIAM C. FRYE,
Attorney at Law, North Little Rock, Arkansas.

OPINION AND ORDER

This matter is currently before the Full Commission on remand from the Arkansas Court of Appeals. On June 25, 2019, an administrative law judge entered an order finding the claimant had failed to meet her burden that would have entitled her to relief. More specifically, the administrative law judge made the following findings and conclusions of law:

1. The claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury to her right buttock and thigh on July 11, 2018. She has failed to provide evidence in the form of objective medical findings

to support her contention that she suffered spasms related to the July 11, 2018 incident and alleged injury.

2. The claimant is not entitled to temporary partial disability or medical benefits.
3. The claimant's attorney is not entitled to an attorney fee based in the above findings.

After a carefully conducted *de novo* review of the entire record, the Commission affirmed and adopted the decision of the administrative law judge.

On May 27, 2021, the Court of Appeals issued a mandate reversing and remanding the decision of the Commission. On the issue of whether appellant presented proof of objective medical evidence and whether the injury was work related, the Court of Appeals sided with the claimant's argument that her diagnosis of muscle strain along with prescribed treatment of medications, physical therapy, and pain management is sufficient to establish objective finding. See *Fred's, Inc. v. Jefferson.*, 361 Ark. 258, 206 S.W.3d 238. Further, the Supreme Court held that it is reasonable to infer from the chronology of events that the medication and physical therapy was prescribed to aid and treat her injury and that the medical evidence was supported by objective findings. *id.* Further, the Court of appeals cited *Estridge v. Waste Mgmt*, 343 Ark. 276, 33 S.W. 171 wherein the Court found this to be objective evidence of injury in that a doctor would not prescribe medications used for muscle spasms if

he or she did not believe that muscle spasms existed. Finally, the Court of Appeals cited *Continental Express, Inc., v Freeman*, 66 Ark. App. 102, 989 S.W. 2d 538 (1999) wherein the Supreme Court held there were objective medical findings to support a lower back injury where the claimant complained of muscle spasms and that such may be compensable.

The medical evidence submitted by the current claimant contains medical findings in the form of observations of the doctors as to the noted tenderness, the prescribed treatment in the form of medication, physical therapy, and pain management.

Having found proof by a preponderance of the evidence of a compensable injury as documented by the Court of Appeals, the Commission remands this case to the administrative law judge for other determinations regarding the compensability for the injury which was not addressed previously by the administrative law judge. Specifically, the administrative law judge shall make further determinations of whether claimant suffered a compensable injury to her buttock and thigh on July 11, 2018, and to what extent claimant is entitled to medical treatment and temporary partial disability benefits. Therefore, this case is remanded to the administrative law judge for proceedings consistent with this order and the mandate from the Court of Appeals.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

M. SCOTT WILLHITE, Commissioner