

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G106990

LINDA MICHAEL,
EMPLOYEE

CLAIMANT

BOONEVILLE SCHOOL DISTRICT,
EMPLOYER

RESPONDENT NO. 1

ARKANSAS SCHOOL BOARDS ASSN.,
INSURANCE CARRIER

RESPONDENT NO. 1

DEATH & PERMANENT TOTAL
DISABILITY TRUST FUND

RESPONDENT NO. 2

OPINION FILED JUNE 23, 2026

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

Claimant represented by the HONORABLE EDDIE H. WALKER, Attorney, Fort Smith, Arkansas.

Respondents No. 1 represented by the HONORABLE MELISSA WOOD., Attorney, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE CHRISTY L. KING, Attorney, Little Rock, Arkansas

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondent appeals an opinion and order of the Administrative Law Judge filed February 17, 2026. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on August 25, 2025, and contained in a Pre-hearing Order filed August 26, 2025, are hereby accepted as fact.
2. The Claimant has proven by a preponderance of the evidence that she is entitled to temporary total disability benefits from March 7, 2025, to August 19, 2025.
3. The Claimant has proven by a preponderance of the evidence that her attorney is entitled to an attorney fee.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's February 17, 2026, 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.

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 Mayton dissents.

DISSENTING OPINION

I respectfully dissent from the majority's opinion the claimant is entitled to temporary total disability benefits from March 7, 2025 to August 19, 2025.

The claimant sustained a compensable injury to her back on June 28, 2011. On September 2, 2014, an Agreed Order was entered stipulating the claimant was entitled to a fourteen percent (14%) permanent impairment rating and wage loss of forty two percent (42%).

On January 26, 2023, a hearing was held regarding the question of whether the claimant's circumstances had changed sufficient to warrant an award of permanent total disability benefits. The Commission and later the Court of Appeals determined the claimant had not established a change in circumstances and she was not permanently and totally disabled.

The parties appeared for a hearing on November 20, 2025, to litigate the issue of whether the claimant was entitled to temporary total disability benefits (TTD). An administrative law judge (ALJ) opined the claimant had met her burden of proving by a preponderance of the evidence she was entitled to TTD for the period March 7, 2025, to August 19, 2025.

Respondents appeal.

Our Rules provide that a claimant who has suffered a scheduled injury is entitled to TTD benefits “during the healing period or until the employee returns to work, whichever occurs first” Ark. Code Ann. § 11-9-521.

The claimant has the burden of proving by a preponderance of the evidence that she remains within her healing period and that she suffers a total incapacity to earn wages as a result of the compensable injury.

Arkansas State Highway & Transportation Department v. Breshears, 272 Ark. 244, 613 S.W.2d (1981). The Commission and the Court of Appeals agree this language “cannot be considered in a vacuum, and the employees' failure to return to work must be causally related to the injury.” *Fendley v. Pea Ridge Sch. Dist.*, 97 Ark. App. 214, 245 S.W.3d 676 (2006).

The issue of permanent disability in this matter is *res judicata*. In 2025, the Court of Appeals held:

The Commission noted that before the agreed order was entered, the evidence indicated that fifteen job

leads had been identified for Michael, and there were differing opinions at that time as to why she did not return to work, ranging from "it was difficult to place an individual in the labor market who does not believe she is able to work" to disagreement that any of the possible jobs were viable options for Michael. The Commission further found that the physical and mental limitations Michael claims now make her permanently and totally disabled were all present when the agreed order was entered in 2014, and the additional 1 percent permanent impairment to her body as a whole did not make her totally and permanently disabled. Because the Commission's decision displays a substantial basis for the denial of relief, we affirm.

Michael v. Booneville School District, 2025 Ark. App. 45, 718 S.W.3d 572 (2025).

The claimant relies on the same testimony that has previously been ruled as insufficient as the basis for her alleged change in circumstances.

At the 2023 and 2025 hearings, the claimant's husband, Phillip Michael, testified he does not believe the claimant could work a full-time or even part time job. The claimant testified at both hearings she needs a walker because she is weak in her back and legs and does not want to fall.

She did not believe in 2023 or 2025 she could work for even two hours a day.

The claimant has not had any additional surgeries since 2023 and is under the care of the same physicians, Dr. Danny Silver and Dr. Rachel Fiori.

It is clear that the claimant, having failed to meet her burden of proof regarding permanent disability, is attempting a second bite at the apple using the same evidence that has previously been adjudicated. The claimant relies on her contention that her condition has been ongoing for years, she is totally incapacitated from working, and she has reached maximum medical improvement to support her claim she was temporarily disabled for a period of months.

There is no change of circumstances. This has long been established. The claimant is simply trying to put a new name on an issue that has already been decided against her. For these reasons she has failed to meet her burden of proof. Accordingly, for the reasons set forth above, I must dissent.

MICHAEL R. MAYTON, Commissioner

