

## **NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H402896

CONNIE ROBERTS, EMPLOYEE

CLAIMANT

UNIVERSITY OF ARKANSAS FAYETTEVILLE,  
EMPLOYER

RESPONDENT

PUBLIC EMPLOYEE CLAIMS DIVISION,  
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED JUNE 5, 2025

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

Claimant represented by the HONORABLE MICHAEL L. ELLIG, Attorney at Law, Fort Smith, Arkansas.

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

Decision of Administrative Law Judge: Affirmed and Adopted.

### OPINION AND ORDER

Claimant appeals an opinion and order of the Administrative Law

Judge filed February 5, 2025. 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 a pre-hearing conference conducted on November 6, 2024 and contained in a pre-hearing order filed that same date are hereby accepted as fact.
2. Claimant has failed to meet her burden of proving by a preponderance of the evidence that she suffered a compensable gradual onset injury to her right shoulder and arm while employed by respondent.

3. Claimant has failed to meet her burden of proving by a preponderance of the evidence that she suffered a compensable injury to her right shoulder and arm as a result of a specific injury while employed by respondent.

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 5, 2025 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 of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Therefore we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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MICHAEL R. MAYTON, Commissioner

Commissioner Willhite concurs.

CONCURRING OPINION

After my *de novo* review of the entire record, I concur with the majority Opinion finding that the Claimant failed to prove by a preponderance of the evidence that she suffered a compensable specific incident or gradual onset injury to her right shoulder while employed by Respondent. I write separately for the benefit of the Claimant.

While Claimant clearly suffers from objective problems with her right shoulder, there does not appear to be sufficient evidence in the record to meet her burden of proof as to causation of those objective problems. To establish a compensable specific incident injury by a preponderance of the evidence the Claimant must prove: (1) an injury arising out of and in the course of employment; (2) that the injury caused internal or external 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(16), establishing the injury; and (4) that the injury was caused by a specific and identifiable time and place of occurrence. Alternatively, a compensable injury can develop over a period of time or result from rapid repetitive motion. Ark. Code Ann. § 11-9-102(4)(A)(ii)(a). Further, with regard to a gradual onset injury the compensable injury must be the major cause of the disability or need for treatment. Ark. Code Ann. §

11-9-102(4)(E)(ii). In either situation, a compensable injury must be established by medical evidence supported by objective findings and medical opinions addressing compensability must be stated within a degree of medical certainty. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002). In this matter there is insufficient evidence to establish that the Claimant's objective shoulder problems resulted from her work with the Respondent. Additionally, based upon the **credible evidence it does not** appear that the Claimant's job duties met the requirements of being sufficiently rapid and repetitive.

Therefore, Claimant has not met her burden of proof to establish compensability and I must concur with the majority.

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M. SCOTT WILLHITE, Commissioner