

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F211081

LATRINA JACKSON, EMPLOYEE

CLAIMANT

**JENKINS MEMORIAL CHILDREN'S CENTER,
EMPLOYER**

RESPONDENT

**LIBERTY MUTUAL INSURANCE CORPORATION,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED SEPTEMBER 18, 2003

Hearing before Administrative Law Judge Dail Stiles on August 21, 2003, in Little Rock, Pulaski County, Arkansas.

Claimant represented by Mr. Horace A. Walker, Attorney at Law, Little Rock, Arkansas.

Respondents represented by Mr. Michael E. Ryburn, Attorney at Law, Little Rock, Arkansas.

A hearing was held on August 21, 2003, to determine the compensability of the claim filed herein.

It was stipulated that the employer/employee relationship existed on September 24, 2002, and that the claimant was earning sufficient wages to entitle her to weekly indemnity benefits of \$178.00 for temporary total disability and \$154.00 for permanent partial disability benefits.

The claimant contends she sustained a compensable injury to her back on September 24, 2002. The claimant contends she is entitled to temporary total disability benefits from September 24, 2002 through a date yet to be determined, as well as attendant medical benefits and attorney's fees.

The respondents controvert the claim in its entirety contending there are no objective findings in the medical evidence to support a claim of compensability.

STATEMENT OF THE CASE

The claimant worked for the respondent employer as a teacher's aide.

On September 24, 2002, one of the children in the claimant's charge pushed a chair out from under the claimant, causing her to fall to the floor and sustain injuries to her back, particularly, her coccyx.

The incident was reported and the claimant began receiving benefits, including temporary total disability benefits of \$684.00 every two weeks. Those benefits continued until some time in December, 2002.

The claimant has been seen and treated by Dr. Armstrong, a general practitioner in Pine Bluff, and has also been seen and evaluated by Dr. Bruce Safman, a physiatrist with Arkansas Specialty Care Centers in Little Rock.

On December 11, 2002, Dr. Safman released the claimant to work six hours a day for two weeks and then return to full duty. Prior to that, Dr. Safman had the claimant working at four hours a day. The claimant did not return to work, and at the time of the hearing, stated that she continued to have pain in her low back, and that she had significant spasms in her back, although, that has never been medically corroborated.

On December 4, 2002, as an addendum to an office note, Dr. Bruce Safman stated:

I have reviewed the x-rays of the thoracic spine and they are normal. The patient informed me that she had no intention of returning to work, that she thought she was hurting too much. She felt even returning for four hours with the restrictions I gave her were excessive.

Plain x-rays were taken of the claimant's lumbar and thoracic spine, as well as an MRI of the lumbar spine, and all those tests proved to be normal. There is no medical documentation of any spasm or swelling. The claimant has been diagnosed as having a lumbar sprain/strain or soft tissue injury.

At the time of hearing, the claimant continued to complain of pain and stated that she had pain on a daily basis and was unable to work.

FINDINGS OF FACT

1. The claimant did not sustain a compensable injury as a result of her fall of September 24, 2002.

2. There are no “objective findings” in the medical evidence to support a claim of compensability.

DISCUSSION

Ark. Code Ann. §11-9-102(4)(D) is controlling and states:

A compensable injury must be established by medical evidence supported by “objective findings” as defined in subdivision (16) of this section.

Ark. Code Ann. §11-9-102(16)(A)(i) states:

“Objective findings” are those findings which cannot come under the voluntary control of the patient.

In this case, there simply are no “objective findings” after multiple diagnostic tests were performed on the claimant.

Dr. Armstrong had noted in an office note of November 8, 2002, that it was unusual for the claimant to still be sore and express complaints after that amount of time had passed from injury.

The claimant simply does not meet her burden of establishing by a preponderance of the evidence of record that the accident she experienced on September 24, 2002, caused sufficient injury to entitle her to workers’ compensation benefits.

The above claim is respectfully denied and dismissed.

IT IS SO ORDERED.

DAIL STILES
Administrative Law Judge