

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NUMBER F300107**

**SHIRLEY A. SIMPSON, EMPLOYEE**

**CLAIMANT**

**SELMA OAKS FLOORING, EMPLOYER**

**RESPONDENT**

**TRAVELERS INSURANCE COMPANY, CARRIER**

**RESPONDENT**

**OPINION FILED JULY 2, 2003**

A hearing was conducted on June 26, 2003, before ADMINISTRATIVE LAW JUDGE DON N. CURDIE, at Monticello, Drew County, Arkansas.

The claimant was represented by Kenneth Harper, Attorney at Law, Monticello, Arkansas.

The respondent was represented by Phillip Cuffman, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

The hearing was held on June 26, 2003, in Monticello, Arkansas. It was stipulated as follows:

1. The employee-employer-carrier relationship existed at all relevant times.

2. The claimant's average weekly wage was \$350.00

By agreement of the parties, the issues to be litigated at the hearing were limited to the following:

1. Did claimant sustain a compensable injury on December 31, 2002?
2. Is claimant entitled to temporary total disability benefits?
3. Is claimant entitled to medical benefits?

4. Is claimant entitled to an attorney's fee?

The claimant testified at the hearing that she was tying buggies while working for Selma Oak Flooring. She pushed the load, causing pain in her lower back. She testified that she noticed severe pain in her low back when the accident happened. The claimant testified that she went to the doctor and received some treatment but continues to have some problems with her low back, and some problems with pain radiating down her left leg.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The employee-employer-carrier relationship existed at all relevant times.
2. The claimant's average weekly wage was \$350.00
3. The preponderance of the evidence reflects that the claimant did not sustain a compensable injury on December 31, 2002. The claimant has not shown, to support her allegation of injury, medical evidence supported by "objective findings."

**DISCUSSION**

The claimant appeared to be a very credible witness. The claimant's injury occurred after July 1, 1993. Thus, this claim is governed by the provisions of Act 796 of 1993. In order to establish the compensability of an injury, the claimant must satisfy all of the requirements set forth in A.C.A. § 11-9-102, as amended by Act 796. A claimant must prove by a preponderance of the evidence that she sustained an accidental injury as a result of a specific incident identifiable by time and place of occurrence, which caused internal or external harm to the body, which arose out of and

in the course of her employment, and which required medical services or resulted in disability or death. A.C.A. § 11-9-102(4)(A)(i) and A.C.A. § 11-9-102(4)(E)(i). The statute requires that a claimant establish a compensable injury by medical evidence supported by objective findings as defined in A.C.A. § 11-9-102(16). Finally, medical opinions addressing compensability must be stated within a reasonable degree of medical certainty.

If the claimant fails to establish by a preponderance of the credible evidence any of the requirements for establishing the compensability of the injury, she fails to establish the compensability of the claim and compensation must be denied.

While the claimant appeared to be a credible witness, and it appears that an incident did occur, that reality does not result in claimant prevailing. The evidence in this case does not support a finding of compensability...under the law. The law requires the claimant, in attempting to prove an injury, must have as that part of the proof “medical evidence supported by objective findings.” “Objective findings” are those that cannot come under the control of the claimant. Examples of “objective findings” would be “bruising,” “swelling,” “muscle spasm,” and findings that a doctor could see on an MRI and relate to the claimant’s injury. There are essentially only two medical records of treatment submitted in this case, Claimant’s Exhibit 1, page 1, and Claimant’s Exhibit 1, page 4. I cannot find any indication of objective findings of an injury. The indication on those two medical records reflect complaints of pain and radiculopathy (pain that radiates to another part of the body.) There is no indication of bruising, swelling, muscle spasms, guarding, straightening of the lordosis or any other objective findings which have been recognized by the workers’ compensation commission. If there were

x-rays or MRI studies of the claimant, they are not included in the record. Since the claimant has not shown any objective finding of injury, she cannot prevail in her claim of compensability. The claimant's claim is respectfully denied and dismissed. Since the claimant has not sustained her burden of proof on compensability, the other issues need not be addressed.

**IT IS SO ORDERED.**

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DON N. CURDIE,  
Administrative Law Judge

DC