

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F305579

LUTRICIA COKER, EMPLOYEE

CLAIMANT

**SCOOTERS, EMPLOYER
UNINSURED**

RESPONDENT

OPINION FILED JANUARY 7, 2004

Hearing before Administrative Law Judge Dail Stiles on December 12, 2003, in Pine Bluff, Jefferson County, Arkansas.

Claimant appeared Pro Se.

Respondent appeared Pro Se.

A hearing was held on December 12, 2003, to determine the compensability of the claim filed herein.

There were no stipulations.

The claimant contends she was an employee of the respondent on May 27, 2003. The claimant contends she sustained an injury arising out of and during the course and scope of her employment on May 27, 2003. The claimant contends she is entitled to temporary total disability benefits from May 27, 2003 through a date yet to be determined, as well as attendant medical benefits.

The respondent controverts the claim in its entirety contending that the claimant was not an employee on May 27, 2003, but rather was working in a capacity as a contract laborer.

STATEMENT OF THE CASE

The claimant testified that she was a friend of a woman named Young who was the manager for the respondent's place of business, which was a restaurant.

The claimant stated that Ms. Young called her to come in and help a couple of days, and that the claimant did go in and worked the lunch hours as a waitress.

The claimant said that Ms. Young then called her in a week or so and asked her to come in and work, and that she worked for a total of approximately 30 hours, and that the owner of the respondent business, Ms. McKennon, wrote her a check for those hours worked. The claimant said that when she was injured on May 27, 2003, she had already accumulated 21 hours for that week. The claimant said that a piece of shelving fell and struck her on the neck and left shoulder.

The claimant reported the injury to Renee Young Huckaby, the manager of the respondent business, and sought medical treatment at the emergency room at Jefferson Regional Medical Center in Pine Bluff. The claimant followed up with Dr. Paul Davis and said she treated with him maybe three or four times.

Approximately a month after the alleged injury of May 27, 2003, the claimant moved to Conroe, Texas, where she has resided since.

There was no medical evidence introduced at the hearing by either party.

FINDING OF FACT

The claimant fails to meet her burden of proving by a preponderance of the evidence of record that she sustained an injury arising out of and during the course and scope of her employment on May 27, 2003.

DISCUSSION

There is the issue relative to the claimant's employment status. The claimant contends she was an employee and respondent contends she was an independent contractor. I make no finding relative to that issue because assuming,

arguendo, that the claimant was an employee on May 27, 2003, no medical evidence whatsoever is offered to support her claim of compensability.

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, the claimant offers no medical evidence whatsoever in support of her contention that she sustained a compensable injury on May 27, 2003, and for that reason, her claim fails.

The above claim is respectfully denied and dismissed.

IT IS SO ORDERED.

DAIL STILES
Administrative Law Judge