

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F300138**

<b>JACQUELINE MILLER, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>UNIVERSITY OF ARKANSAS AT PINE BLUFF, EMPLOYER</b>	<b>RESPONDENT</b>
<b>PUBLIC EMPLOYEE CLAIMS DIVISION, INSURANCE CARRIER</b>	<b>RESPONDENT</b>

**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.

Respondents represented by Mr. Richard S. Smith, Attorney at Law, Little Rock, Arkansas.

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

It was stipulated that the employer/employee relationship existed on December 6, 2002, and that the claimant was earning sufficient wages to entitle her to a weekly temporary total disability benefit of \$178.00.

The claimant contends she sustained a compensable injury on December 6, 2002. The claimant contends she is entitled to temporary total disability benefits commencing December 6, 2002 and continuing through a date yet to be determined. The claimant contends she is entitled to attendant medical benefits.

The respondents controvert the claim in its entirety contending there are no objective findings in the medical evidence to support a claim of compensability. Respondents further contend that the complaints claimant is making now pre-existed any incident of December 6, 2002.

## **STATEMENT OF THE CASE**

The claimant worked for the respondent employer in a custodial capacity.

On December 6, 2002, the claimant was stripping a floor and slipped and fell on the wet floor. The claimant said she sustained injuries to her low back, her knees and her hands.

The claimant reported her injury and started treatment with Dr. Lester Alexander, a general practitioner in Pine Bluff, on December 16, 2002. Dr. Alexander, in a clinic note of December 16, 2002, diagnosed the claimant with a lumbar strain. The claimant was referred to Dr. Ron Williams, a neurosurgeon, and in an April 8, 2003 letter to Dr. Ruben Tejada, Dr. Williams stated that he had ordered an EMG of both legs and the left arm and an MRI of the cervical spine, and that all of those tests were normal.

An MRI of the claimant's right knee was ordered by Dr. Ruben Tejada in May of 2002. At that time, the claimant was diagnosed by Dr. Tejada as having a degenerative condition of the right knee.

The claimant saw Dr. Michael Courtney, a chiropractor, in September of 2003. In a form prepared by Dr. Courtney's office dated September 17, 2003, it states under the Complaints section that the claimant is complaining of spasms and stiffness in her low back and spasms in her neck.

## **FINDING OF FACT**

There are no "objective findings" in the medical evidence to support a claim of compensability in this case.

## **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, the diagnostic tests ordered by Dr. Ron Williams were normal. Those tests consisted of an EMG of both legs and the left arm and an MRI of the cervical spine.

It should also be noted that Dr. Tejada, in May of 2002, diagnosed the claimant as having degenerative difficulties with her right knee as demonstrated by an MRI.

The medical evidence does contain the one report from Dr. Courtney, the chiropractor, which, under the Complaints section, notes that the claimant is complaining of spasms in her neck and back. Dr. Courtney makes no independent observation, as a result of examination, about spasms. In other words, there is no report from Dr. Courtney saying that he found spasms in the claimant’s neck or low back.

The claimant in this case simply does not meet her required burden of proof to sustain a claim of compensability.

The above claim is respectfully denied and dismissed.

IT IS SO ORDERED.

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DAIL STILES  
Administrative Law Judge