

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F603954

NEKNEDA L. CARRUTH, EMPLOYEE	CLAIMANT
DEPARTMENT OF FINANCE & ADMINISTRATION, EMPLOYER	RESPONDENT
PUBLIC EMPLOYEE CLAIMS, CARRIER	RESPONDENT

OPINION FILED SEPTEMBER 19, 2006

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH W. HOGAN, on September 6, 2006 at Little Rock, Pulaski County, Arkansas.

Claimant appeared pro se.

Respondents represented by the HONORABLE RICHARD S. SMITH, Attorney at Law, Little Rock, Arkansas.

ISSUES

A hearing was conducted to determine the claimant's entitlement to payment of medical expenses and temporary total disability benefits.

At issue is whether or not the claimant sustained a compensable injury as defined by Ark. Code Ann. §11-9-102.

After reviewing the evidence impartially without giving the benefit of the doubt to either party, Ark. Code Ann. §11-9-704, I find the evidence does not preponderate in favor of the claimant and benefits must be denied.

STATEMENT OF THE CASE

The parties stipulated to an employer-employee-carrier relationship on April 5, 2006 at which time the claimant was earning sufficient wages to be entitled to a

compensation rate of \$285.00/\$214.00, in the event this claim is found to be compensable. Some expenses have been paid by the claimant's group carrier, Qual Choice HMO and some benefits have been paid under the Family & Medical Leave Act.

The claimant contends she slipped and fell on wet stairs while on a restroom break, injuring her back. She seeks payment of medical expenses and temporary total disability benefits from.

The respondents contend the claimant was not performing employment services at the time of the accident and therefore the claimant did not sustain a compensable injury.

The claimant, age 27 (D.O.B. June 17, 1979) testified she injured herself when she slipped and fell on some stairs in the lobby of the building where she had worked for the respondent-employer since 2004. At the time of the accident, the claimant was on a break and decided to walk outside to check the weather since it had been raining earlier that day.

FINDINGS AND CONCLUSIONS

A "compensable injury" is defined as an accidental injury... arising out of and in the course of employment...." Ark. Code Ann. §11-9-102(4)(A)(i)(Supp. 2003). A compensable injury does not include an "injury which was inflicted upon the employee at a time when employment services were not being performed...." Ark. Code Ann. 11-9-102(4)(B)(iii)(Supp. 2003). An employee is performing "employment

services” when he or she “is doing something that is generally required by his or her employer.” White v. Georgia-Pacific Corp., 339 Ark. 474, 478, 6 S.W.3d 98, 100 (1999). The test for determining whether the employee was performing employment services at the time of the injury is “whether the injury occurred within the time and space boundaries of the employment, when the employee [was] carrying out the employer’s purpose or advancing the employer’s interest directly or indirectly.” Pifer v. Single Source Transp., 347 Ark. 851, 69 S.W.3d 1 (2002).

After reviewing the evidence of record, I find the claimant was not performing employment services at the time of injury. Her reason for being on the staircase at the time of the accident was personal in nature and not employment related. Therefore, this claim is not compensable.

1. The Workers’ Compensation Commission has jurisdiction of this claim in which the relationship of employer-employee-carrier existed among the parties on April 5, 2006 at a compensation rate of \$285.00/\$214.00.
2. The claimant has failed to prove by a preponderance of the credible evidence that she sustained a compensable injury, caused by a specific incident, arising out of and in the course of her employment which produced physical bodily harm, supported by objective findings, requiring medical treatment or producing disability, pursuant to Ark. Code Ann. §11-9-102.

This claim is respectfully denied and dismissed.

IT IS SO ORDERED.

ELIZABETH W. HOGAN
Administrative Law Judge