

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F510761

SUSAN D. LEWALLEN

CLAIMANT

ARKANSAS HEALTH CENTER

RESPONDENT EMPLOYER

PUBLIC EMPLOYEE CLAIMS

RESPONDENT CARRIER

ORDER AND OPINION FILED FEBRUARY 16, 2006

Administrative Law JUDGE LINDA K. MARSHALL.

Claimant represented by the HONORABLE PHILIP M. WILSON, Attorney at Law, Little Rock, Arkansas.

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

STATEMENT OF THE CASE

The above claim has been submitted on the record for a determination of whether the claimant is entitled to benefits associated with a mental injury sustained on April 20, 2004.

The parties stipulated that the claimant was an employee of the respondent at all relevant times and that she sustained a psychological injury but suffered no physical injury on April 20, 2004. The claimant's temporary total disability and permanent partial disability rates are \$230/172. The claim has been controverted in its entirety.

The claimant is requesting that the Commission make a determination whether the claimant is entitled to medical benefits as a result of her mental condition following an accident on April 20, 2004, where there was no actual physical injury.

Respondents contend the claim is not compensable, since the mental condition is not a result of a work-related physical injury and is, therefore not compensable under Ark. Code Ann. §11-9-113(a)(1).

FINDINGS AND CONCLUSIONS

1. There was an employer-employee relationship on April 20, 2004.
2. The compensation rates are \$230/172.
3. There were no physical injuries to the claimant arising out of an April 20, 2004, vehicle accident.
4. A preponderance of the evidence provides the claimant did not sustain a compensable mental injury pursuant to Ark. Code Ann. §11-9-102 and Ark. Code Ann. §11-9-113 of the Workers' Compensation Act.
5. The claim has been controverted in its entirety.

DISCUSSION

The facts of the incident are not in dispute. The claimant, an employee of respondent, was delivering patients to another location. While the patients were exiting the van, a patient went into the front door of the building and exited the building from another door and positioned herself behind the back wheels of the van. The claimant repositioned the van and without knowledge that the patient was behind the van, ran over the patient and the patient died. The claimant suffered no physical injuries but did suffer mental injuries as a result of the accident and has sustained medical expenses.

Ark. Code Ann. §11-9-102(4)(A) (Supp. 2005) defines “compensable injury” as follows:

(i) An accidental injury causing internal or external physical harm to the body....;

(ii) An injury causing internal or external physical harm to the body and arising out of and in the course of employment....;

* * *

(iii) Mental illness as set out in §11-9-113....

Ark. Code Ann. §11-9-113(a)(1) (Supp. 2005), provides that a mental injury or illness is not a compensable injury unless it is caused by physical injury to the employee’s body. Clearly, these statutes set out a requirement that a physical injury must precede and cause the mental injury in order for the mental injury to be compensable under the Workers’ Compensation Act.

In the present case, the claimant did not sustain a physical injury as a result of the unfortunate incident on April 20, 2004, but did, however, sustain a mental injury necessitating medical treatment. See, *Travelers Ins. Co. v. Smith*, 329 Ark. 336, 947 S.W.2d 382 (1997). I find that the claimant has failed to prove she sustained a compensable injury and find that a physical injury must precede and cause a mental injury for the mental injury to be compensable under the Workers’ Compensation Act. I find that there is no remedy for the claimant’s mental injury and find that no benefits can be awarded.

ORDER

The preponderance of the evidence provides that the claimant did not sustain a compensable mental injury pursuant to Ark. Code Ann. §11-9-102 and Ark. Code Ann.

§11-9-113 of the Workers' Compensation Act. Any claim for benefits for a mental injury are specifically denied and dismissed.

IT IS SO ORDERED.

**LINDA K. MARSHALL
ADMINISTRATIVE LAW JUDGE**