

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F606124

| | |
|-----------------------------|------------|
| TERESA MULLINS | CLAIMANT |
| PINNACLE HILLS DENTAL GROUP | RESPONDENT |
| UNINSURED | RESPONDENT |

OPINION FILED SEPTEMBER 10, 2007

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Springdale, Washington County, Arkansas.

Claimant represented by ANDREW HATFIELD, Attorney, Rogers, Arkansas.

Respondents represented by JOE BYARS, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

A hearing was held on August 14, 2007, in Springdale, Arkansas.

A pre-hearing conference was held in this claim, and as a result a pre-hearing order was entered in the claim on February 14, 2007. This pre-hearing order set forth the stipulations offered by the parties, the issues to litigate and the contentions thereto.

The following stipulations were submitted by the parties and are hereby accepted:

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On May 11, 2006, the relationship of employee-employer-carrier existed between the parties.

3. The claimant was earning \$11.25 per hour working Monday through Thursday from 8:00 to 5:00 and then on Friday from 8:00 to 12:00.

By agreement of the parties the issues to litigate are limited to the following:

1. Did the claimant sustained a compensable injury to her lower back while working for the respondent on May 11, 2006..
2. The claimant's entitlement to temporary total disability from July 6, 2006 through November 13, 2006.
3. Claimant's entitlement to medical treatment.
4. Attorney's fee.

In regard to the foregoing issues the claimant contends that an employer/employee relationship existed between the Claimant and the Respondent, and that the Claimant did suffer a compensable injury under the State of Arkansas' workers' Compensation laws.

In regard to the foregoing issues the respondent contends that the Claimant has a preexisting back problem and her current problems are continuous of her old problem.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No. 1. The respondents submitted documentary evidence marked Respondent's Exhibit No. 1 and Respondents' Exhibit No. 2. All these exhibits were admitted without objection.

DISCUSSION

Linda Gaffney testified that she was employed with the respondent and had been working for that group for approximately three years. Ms. Gaffney testified that she met the claimant when she began working for the respondent. Ms. Gaffney testified that she remembered an event on May 11, 2006, involving the claimant.

Ms. Gaffney testified that she went into the claimant's work station and observed the claimant crying really hard and she appeared to be in a lot of pain. Ms. Gaffney testified that the claimant could barely walk and that she reported that she had turned and hurt her back. Ms. Gaffney testified that she and Mary Pfeiffer helped the claimant out to her car. This witness remembers that this event occurred after 5:00 because the patients had all left. Ms. Gaffney testified that she had seen the claimant earlier in the day and she did seem to be in any pain or having problems. Ms. Gaffney testified that in the spring of 2007 she had a discussion with Dr. Stringfellow about the May 11 event. Ms. Gaffney testified that prior to May 11, 2006, she never heard the claimant complain of pain in her back or hip.

On cross examination, Ms. Gaffney testified that she was a dental assistant for the respondent. Ms. Gaffney testified that the claimant was also a dental assistant and worked with Dr. Bautts. Ms. Gaffney testified that each doctor had their own operatory but that she would see the claimant probably three or four times during the day. Ms. Gaffney testified that she had already cleaned her area by the time she and Mary Pfeiffer helped the claimant to her car. This witness explained that it was part of her job responsibilities to clean her area each day and that this involved taking their instruments and scrubbing them down, sterilizing them, wiping down the room, and getting everything ready for the next day. Ms. Gaffney agreed that she would take instruments after each procedure to the sterilization room. Ms.

Gaffney testified that the instruments are gathered up in what is referred to as an endo pack which weighs approximately a pound. Ms. Gaffney agreed that the doctor which the claimant worked for did endodontic work and as far as she knew that doctor used what is referred to as an endo pack.

Mary Pfeiffer testified that she had been working for the respondent since 2000 but that she has known the claimant since around 1998 or 1999 because they had worked for another dental group. Ms. Pfeiffer testified that on May 11, 2006, she was walking by the claimant's room and observed her as she turned, grabbed a chair and almost went to the floor. This witness testified she could tell that the claimant was in a lot of pain. Ms. Pfeiffer testified that this event happened late in the day after just about everyone had gone. Ms. Pfeiffer testified that she ran over to the claimant and asked her what was wrong and what had happened and the claimant said she had done something to her back when she turned. Ms. Pfeiffer testified that this was about the time that Linda came in and was asking what had happened. This witness testified that it took both she and Linda to get the claimant to her car. Ms. Pfeiffer testified that they tried to get the claimant to let them take her home but that the claimant insisted that she could drive once she got seated in the car. Ms. Pfeiffer testified that she was a dental assistant. Ms. Pfeiffer testified that this event happened on Thursday and that she does not work on Friday. Ms. Pfeiffer testified that the following week she believes that the claimant did work and that at some time later

the claimant told her that she was not feeling good and asked if she would take her blood pressure. Ms. Pfeiffer testified that the claimant's blood pressure was out of sight, that the claimant was in pain so she got her over to Dr. Petty's office. Ms. Pfeiffer testified that at some point after May 11, 2006, she did have a discussion with Dr. Stringfellow, Chris Ann, and Roxanne concerning the events of May 11, 2006. Ms. Pfeiffer testified that she reported the events as she has previously testified to. Ms. Pfeiffer testified that prior to May 11, 2006, she has never observed the claimant complaining about her back or having pain in her hip or leg nor has she complained that she was unable to perform her job due to pain.

On cross examination, Ms. Pfeiffer testified that the doctor which she works for as well as the claimant's doctor had already left for the day. Ms. Pfeiffer testified that she does not remember the claimant crying initially but she thought that perhaps the claimant had hurt her back because of the way that her legs went out from under her as she grabbed hold of the chair. Ms. Pfeiffer testified that the claimant did not go to the floor because she grabbed the back of the chair and the chair bent down just a little bit. Ms. Pfeiffer testified that the claimant did not tell her that she hurt her back because it was obvious. Ms. Pfeiffer was asked, "You think that, from what you saw, it appeared to you that she hurt herself at that moment. Is that right?" Ms. Pfeiffer responded, "Yeah." Ms. Pfeiffer testified that she does not recall the claimant having any instruments in her hand when she

grabbed the back of the chair. Ms. Pfeiffer testified that she knows that the claimant was working on stuff but does not recall any instruments. This witness testified that it took she and Linda to get the claimant to her car. Ms. Pfeiffer testified that she thinks the claimant continued to work until she experienced problems with her blood pressure. Ms. Pfeiffer testified that she does not know when the blood pressure event took place, she just knows that it was several days later.

The claimant testified that she has been working for the respondent since March 2000. The claimant stated that currently she is a hygiene coordinator explaining that she takes care of five dental hygienists as to tracking their schedules making sure that they stay filled. The claimant testified that on May 11, 2006, she was a dental assistant assisting Dr. Bautts. The claimant testified that Dr. Bautts is an endodontics which means that he does root canals and she assisted him on procedures, cleaned his room, sterilized the instruments, and did most everything else that the other assistants did with some exceptions. The claimant testified that on May 11, 2006, she was working a full schedule because Dr. Bautts other dental assistant had not come in. The claimant remembers that it was around 3:00 and she was running a little behind with her last patient and she was hurrying. The claimant testified that she was getting all of her instruments off the top of a tray and instead of calming down and trying to put stuff up where it belonged she twisted and when she did she pulled something in her lower back. The claimant testified that instead

of turning her complete body around like she should have she was in a hurry and just grabbed her stuff off the tray and twisted. The claimant testified that she immediately felt a pull and pain down the top of her left thigh. The claimant testified that she continued working and the longer she worked the more her leg and back began to ache and it became constant. The claimant testified that the pain was not as much in her leg at that time as it was in her low back. The claimant testified that she finished with the patient that she was running behind on, released the patient, and Dr. Bautts left. The claimant testified that she began cleaning her room, making her computer notes, and was actually setting up her tray when Mary Pfeiffer saw her grab the chair. The claimant testified that she felt like she was going to lose her balance and she was going to fall so she braced herself. The claimant testified that at this time she was hurting in her low back.

The claimant testified that she does not recall whether after the 3:00 event when she twisted and began to experience pain in her low back if she said anything to Dr. Bautts. The claimant testified that at the time she felt like she was going to lose her balance and Mary saw her grab the back of the chair, the doctors were all gone as well as all the people in management. The claimant testified that Mary and Linda helped her to her car. The claimant testified that when she got home she was hurting so she took a shower and applied some Mineral Life to her back, took some ibuprofen and Tylenol and went to bed. The claimant testified that she went in the next day which was Friday because the other

assistant had called her and told her that she would not be coming in and there would be no one to assist Dr. Bautts if she did not go in. The claimant testified that they only had one patient Friday morning because the other patient had canceled so she was able to go home early around 10:30 or 11:00. The claimant testified that before she went into work that morning she broke one of her ex-husband's pain medications into and took half of it because when she had gotten up that morning she was still hurting. The claimant testified that the pain medication made her discomfort tolerable so she could do her work. The claimant testified that none of management was in the office on Friday although she was working with Dr. Bautts. The claimant testified that she did tell Dr. Bautts that the day before she had moved wrong and hurt her back. The claimant testified that she was in pain all weekend and on Monday she went to see Dr. Shaw a chiropractor. The claimant testified that Dr. Shaw ran a big vibrator up and down her back but could not get the muscles to loosen up enough so he could give her an adjustment. The claimant testified that the doctor recommended that she stay off work until Wednesday, take ibuprofen and Tylenol and try to stay off her feet as much as she could. The claimant testified that her then husband, Gary, called into work for her. The claimant testified that she and her ex-husband went to the respondent's business and that he actually handed the doctor's excuse to Roxanne Parker. The claimant testified that the next morning she was still in pain so her ex-husband made her an appointment with Dr. Petty on Tuesday, May 16. The claimant

explained that Dr. Petty is her family doctor and that his nurse practitioner, Kristy, agreed to give her a shot and recommended that she undergo an MRI that day. The claimant testified that Dr. Petty took her off work until the 20th of May and then she went back to work on the 22nd. The claimant testified that she began physical therapy on the 23rd of May. The claimant testified that she continued to be in pain and Dr. Petty referred her to Dr. Tomlinson. The claimant testified that when she was seen by Dr. Tomlinson he took x-rays, recommended she continue physical therapy, prescribed medications, and gave her a note with restrictions. The claimant testified that she continued to work during this period of time. The claimant testified that she was in the hospital from June 7 until she returned to work on June 19. The claimant explained that during this period of time it was feared that she was having a heart attack. The claimant testified that for a period of time she was on heart medicine but currently she is not. The claimant agreed that during this period of time she was still under the doctor's care for her back injury and that Dr. Petty on July 6, 2006, took her off work. The claimant explained that Dr. Petty was concerned about her breaking her pain meds into and working on patients. The claimant testified that during this period of time she was having pain in her low back with tingling down her leg and into the bottom of her foot. The claimant testified that she was off work until she had gone back to see Dr. Knox on November 13 and he released her back to light duty so she actually began working again on November 14. The claimant

testified that Dr. Petty had referred her to Dr. Knox and she had first gone to him on July 13, 2006. The claimant testified that she was given a TENS unit by Dr. Knox on August 14 and that during this period of time she was doing physical therapy and taking pain meds. The claimant testified that she continued to go to physical therapy until December 2006. The claimant testified that she last saw Dr. Knox on January 13 and he recommended that she continue to work on moderate duty until April and at that time she could determine for herself how she felt and what she could do. The claimant agreed that Dr. Knox did not give her any specific permanent restrictions. The claimant testified that prior to May 11, 2006, she had never had any physical treatment for her back or hip and had never been put on any work restrictions prior to that date.

On cross examination, the claimant agreed that she was in a motor vehicle accident in 2002 or 2003. The claimant further agreed that as a result of this accident she experienced pain in her neck and shoulders for which she was treated by Dr. Yawn. The claimant also agreed that approximately fifteen years earlier she had been in another car wreck where she totaled her car and had to be transported to the hospital by ambulance. The claimant indicated that prior to her May 11, 2006, event she had experienced aches and pains in her neck and shoulders. The claimant agreed that she has received treatment from Dr. Shaw, a chiropractor, off and on for the past two years before her May 11 event. The claimant testified that these adjustments were primarily for her

neck and shoulders but that the adjustments included the entire spine. The claimant testified that the frequency of these visits to Dr. Shaw were approximately every three to four months. The claimant testified that after Dr. Petty had the MRI on her back run it was discovered that she had spina bifida occulta. The claimant agreed that this particular medical problem was something she was born with. The claimant indicated that on May 11, 2006, she had a patient waiting and as she was wiping down some of the instruments she twisted to put the apex locator up on the cabinet beside her and that is when she experienced the pain. The claimant explained that the apex locator is not a part of every endo pack but it is one of the instruments or machines used by her doctor. The claimant was questioned extensively about what instrument she was working with at the time of her accident and portions of her deposition were read. The claimant basically concluded that all of the instruments which they work with she considers to be endo instruments but the one she specifically was wiping down and moving was the apex locator. The claimant testified that the pain she immediately experienced was not so bad that she could not move but it progressively got worse. The claimant testified that when she works with Dr. Bautts she works right across the chair from him but that she does not recall saying anything to him about hurting her back on that day. The claimant was asked why she did not report her event to someone in authority the day that it happened and the claimant responded that she was Dr. Bautts only assistant and her patients come first, they are the number one priority. The

claimant testified that by the time she finished assisting Dr. Bautts with the last procedure, all the people in management, Rox and Chris Ann, had already left. The claimant testified that she did not report her accident to anyone the next day, Friday, because none of them were in the office. The claimant testified that she felt sure that Dr. Bautts would have asked her on Friday why she was limping and what was going on but she could not say for 100 percent what that conversation was. The claimant testified that after she was seen by Dr. Shaw on Monday following her accident, she did not go in with her husband when he took her off work slip in to Roxanne. The claimant testified that her then husband made her an appointment with Dr. Petty on Thursday and she does not know whether anyone let the respondent know about this doctor's appointment. The claimant agreed that she underwent an MRI and although she does not know what the results of the MRI revealed she does remember her husband going to pick up prescribed medications. The claimant agreed that she had reported to her physical therapist that last Tuesday she injured back while working on a patient, twisted behind her reaching to put tools on a table and felt a pull. This physical therapist report also indicates that by the end of the day the claimant felt worse pain. The claimant agreed that it was on May 22, 2006, that she filled out paperwork reporting a work related injury. The claimant testified that she learned that there was no workers' compensation insurance coverage on June 5, therefore she was treated under her group health insurance. The claimant agreed that after her scare with heart

trouble, she underwent a CT scan where it was discovered that she had spina bifida occulta and she was referred to Dr. Knox. The claimant testified that Dr. Petty took her off work on July 6 because she was taking pain meds and working on patients. The claimant testified that on her way to see Dr. Knox on November 2, 2006, she was involved in a motor vehicle accident and pulled some muscles in her neck but she was also having pain in her lower back. The claimant testified that she returned to work for the respondent on November 13, 2006, and has not missed work due to back problems since that time. The claimant agreed that Dr. Knox released her without restrictions but with the instruction to do whatever she felt she was able to.

On redirect examination, the claimant identified a form which she had filled out reporting her injury to have occurred on May 11, 2006, and also set forth that the respondent was notified on May 15, 2006. The claimant testified that Chris Ann Byars, the office manager, signed this form at the bottom after she had reviewed it. The claimant testified that she has never had any problems with spina bifida and was unaware that she had it until the CT scan revealed it. The claimant testified that when she was referred to Dr. Knox it was for her spina bifida as well as her back problems. The claimant testified that she and Dr. Knox discussed spina bifida on the first visit and that it was mainly her questioning him about this particular problem. The claimant testified that the remainder of the visits were an attempt to try and control her back pain. The claimant testified that it was sometime around the date that

she had her CT scan that she learned that the respondent did not have workers' compensation insurance. The claimant testified that at that point there was no need to consult with the respondents as to what type of medical treatment she was receiving for her back.

On recross examination, the claimant testified that she believes that Dr. Tomlinson may have talked with her about mild degenerative changes in her back.

Melissa Huey testified that she has been working for the respondent for approximately four years as a financial counselor. Ms. Huey testified that she recalled a time when the claimant was off work in May 2006. This witness testified that the claimant called her and informed her that the respondent did not have workers' compensation insurance. Ms. Huey testified that the claimant told her that she hurt her back but does not know if she hurt her back at work or at home but that it flared up at work.

On cross examination, Ms. Huey testified that this conversation occurred a day after or like two days after the claimant left work the first time and went next door to Dr. Petty's office. Ms. Huey testified again that the claimant reported that she did not know if she hurt her back at work or at home but it was at work when her back started bothering her.

On rebuttal, the claimant testified that she does not recall having a telephone conversation with Ms. Huey but it is possible that she has had a conversation with her. The claimant testified that she did not learn that the respondent did not have workers' compensation until June and that she first saw Dr. Petty in May.

The claimant testified that she first learned that there was no workers' compensation insurance on June 5. The claimant testified that she got hurt at work that she knew when she got hurt and she was not hurt before.

On cross examination, the claimant testified that on June 5 she had a physical therapy appointment at 4:00 and that the workers' compensation lady called her to inform her that her claim was being denied because there was a lapse in the workers' compensation insurance. The claimant identified the respondents exhibit page eighty which was the first report of injury which was filled out on May 22. The claimant agreed that at that point she was under the impression that the respondent had workers' compensation coverage. The claimant testified that after June 5 when she learned that there was no workers' compensation insurance she would still take a note from her different doctors back to the respondent. The claimant testified that usually on these notes there was also a notation as to when her next appointment was to be.

The medical records set forth that the claimant was seen at Dr. Petty's clinic on May 16, 2006, for complaints of back pain that shoots all the way down her leg and has tingling in her feet. After examination, the claimant was assessed with having a disc herniation, an MRI was recommended and the claimant was given medications as well as an injection for pain relief. There is a note dated May 17, 2006, from the Pinnacle Point Physical Therapy indicating that the claimant injured her low back on May 11, 2006.

The claimant underwent an MRI of her lumbar spine on May 16, 2006, which was normal. The physical therapy notes dated May 19, 2006, indicate that the claimant reports that she injured her back last Thursday on May 11, 2006, when she was working on someone, took a tool, and twisted behind her reaching to put tool down on a table and felt a pull. The claimant continued to be treated by Dr. Petty with medications and physical therapy through the month of May. The claimant was seen at Dr. Petty's office on May 31 where it is noted that she is being followed for her left hip pain. The nurse writes that she had physical therapy yesterday and the pain was worse than it had been. The claimant reports that she had traction and at first did well and once she got off the unit she had increased spasm. At this visit the claimant reports that she was at home and something popped and her pain let up, noting that she has been using a cortisone patch and ice but this gives her no relief. After examination, the claimant was assessed with sacroilitis with radiculopathy and medications were prescribed. The claimant was seen by Dr. Robert Tomlinson on June 2, 2006. Dr. Tomlinson sets forth a brief history of the claimant's illness and after examination Dr. Tomlinson reviewed her x-rays which he writes shows mild disc space narrowing at L5/S1. The doctor writes that he reviewed an MRI scan which showed some change in signal intensity in the L4/5 disc. Dr. Tomlinson assessed the claimant with having lumbar spondylosis with acute lumbar sacral strain/sprain. Dr. Tomlinson recommended a spinal stabilization program and ice with no heat. Dr. Tomlinson returned the claimant

to work with no lifting or carrying greater than one pound and no squatting or stooping. The claimant was seen by Dr. Petty on June 5, 2006, where it is reported that she continues to have pain in her low back, buttock, and thighs since acute onset at work a few weeks ago. Dr. Petty notes that the claimant was seen by Dr. Tomlinson and he had diagnosed the claimant with having a back strain. After examination, the claimant's medications were adjusted.

On June 7, 2006, the claimant was seen at Dr. Petty's office for what was feared might be a heart event. Dr. Petty's notes indicate that the claimant was taken by ambulance to the hospital where she was treated and observed for a possible heart attack.

On June 13, 2006, the claimant underwent a CT scan of her left hip which was normal and a CT of her pelvis which revealed that she has spina bifida occulta at the L5 with some mild degenerative changes at the facets. This scan showed no other abnormalities. The claimant was seen on July 3, 2006, at the Mercy Health System of Northwest Arkansas by Dr. Carissa Candler for complaints of trimmers which are unrelated to her work related injury. The claimant was thoroughly evaluated by Dr. Petty on July 6, 2006, specifically addressing the psychological side to her various problems. After examination and evaluation, the claimant was assessed with depression, anxiety syndrome, hypothyroidism, insomnia, lumbar radiculitis, spina bifida occulta, esophagus reflex, mixed hyperlipidemia, essential tremors, irritable bowel syndrome, and osteopenia. Dr. Petty took the claimant off work due

to her uncontrollable pain and sedation secondary to her medications because it was interfering with her work. The claimant was prescribed twelve different medications. The claimant was seen on July 13, 2006, at the Neuro Surgical Clinic by Tana White, Dr. Knox's physician's assistant for evaluation of her back pain, bilateral hip pain and spina bifida occulta. Upon examination, Ms. White notes that the claimant's test was somewhat limited due to her significant pain syndrome. Ms. White notes that the claimant has marked spasms of the para lumbar spine and demonstrated a list to the left. Ms. White writes that the claimant's CT scan of her lumbar spine reveals evidence of spina bifida occulta at L5 with some mild degenerative changes at the facet joints. Ms. White notes that the claimant has evidence of herniated intervertebral disc at L5 or L6-S1 and she does have evidence of a spondylo defect at L6. Ms. White notes that the claimant has significant left lower extremity radiculopathy. Conservative treatment was recommended and an injection was administered as well as the claimant was set up for an RS stimulator trial as therapy for her pain syndrome. X-rays of the claimant's lumbar spine made on July 13, 2006, were normal with the exception of the spina bifida occulta at the L6 level. On August 7, 2006, the claimant was seen at Dr. Petty's office and after a thorough examination both physically and psychologically the claimant was assessed with having lumbago, depression, anxiety syndrome, insomnia, esophagus reflex, and that she was post menopausal. It was recommended that the claimant take medications as well as to continue off work. The

claimant was seen at Dr. Knox's office on August 14, 2006, to be educated on the use of the RS stimulator. It is noted by Tana white that the claimant is to undergo a three-month trial with the stimulator to see how it affects her pain syndrome and episodes of muscle spasms. Dr. Luke Knox writes on August 17, 2006, that the claimant has gone through extensive conservative measures. Dr. Knox notes that the claimant's MRI indicates an L5-S1 disc bulge, however she has six lumbar vertebra and it appears that there is a significant fullness around the L3 nerve root at L4-5 (this looks like L3-4 due to the sixth lumbar vertebra). Dr. Knox recommended that the claimant proceed with a discography. Dr. Knox writes on September 14, 2006, that the claimant's diskogram at L3-4 was completely normal as well as placement of marcaine which was also completely normal. Dr. Knox writes that he could discern no evidence of compressive pathology. Dr. Knox recommended that the claimant remain off work for the next six weeks and prescribed physical therapy. The claimant was seen by Dr. Petty on November 9, 2006, following a motor vehicle accident. The claimant's chief complaint at this time was pain at the base of her neck and between her shoulders. X-rays taken at the ER following the accident were negative and the claimant was diagnosed with muscle strain. After examination, the claimant was assessed with cervical strain and sprain and lumbago for which physical therapy was recommended and medications prescribed. Dr. Knox writes on November 13, 2006, where it is noted that the claimant has been free of leg pain over the past month. Dr. Knox addresses the claimant's symptoms

resulting from her motor vehicle accident and conservative treatment was recommended. X-rays taken on November 13, 2006, of the claimant's cervical spine were normal. The last eight pages of the respondent's exhibits deal with the claimant's motor vehicle accident which she had on November 2, 2006. On that day, she was taken to the Northwest Medical Center with complaints of neck and back pain. X-rays taken of the claimant's back, hip, and pelvic area reveal no fractures, dislocations, or destructive process. The x-ray of the claimant's back did reveal six non rib lumbar type vertebral bodies as well as an incomplete fusion of the posterior arc of the L6 which is a normal variant. The claimant was released that day.

After a complete review of the testimony and evidence presented in this matter, I find that the claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury on May 11, 2006, as defined by Arkansas law. I do not question that this claimant had an event on May 11, 2006, which resulted in a back strain, however Arkansas law requires that there be objective medical evidence of injury requiring medical care on which to establish a compensable injury. The claimant had continual complaints of pain as well as radiating pain as far down as into her foot, however her MRI was read to be normal as well as a CT scan although that scan did reveal the birth defect of spina bifida occulta. When the claimant was seen by Dr. Tomlinson on June 2, 2006, he does not note any objective findings and diagnoses her with lumbar strain or sprain. It was not until July 13, 2006,

when the claimant was seen by Dr. Knox's nurse's assistant, Tana white, that the claimant had marked spasms of the para lumbar spine. This finding was some two months following the claimant's reported event. At this point the claimant had been through some physical therapy as well as been taken off work by Dr. Petty on or about July 6, 2006. It is further noted that the medications prescribed for this claimant subsequent to her May 11, 2006, event consisted primarily of pain relievers only. Although I believe the claimant did sustain a back strain on May 11, 2006, while working for the respondent Arkansas law requires objective medical findings more than pain on which to establish a compensable injury and none have been found here following her event for at least a two month period of time. Therefore, this claim should be denied in its entirety.

FINDINGS & CONCLUSIONS

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.
2. On May 11, 2006, the relationship of employee-employer-carrier existed between the parties.
3. The claimant was earning \$11.25 per hour working Monday through Thursday from 8:00 to 5:00 and then on Friday from 8:00 to 12:00.
4. The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury as defined by Arkansas law while working for the respondent on May 11, 2006. See discussion above. Also see Ark. Code Ann. §11-9-102.

ORDER

The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury as defined by Arkansas law while working for the respondent on May 11, 2006. Therefore, this claim should be denied in its entirety.

IT IS SO ORDERED.

ELIZABETH DANIELSON
ADMINISTRATIVE LAW JUDGE