

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G501669

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| CHARLOTTE ROBINSON, Employee | CLAIMANT |
| MCKEE FOODS CORPORATION, Employer | RESPONDENT |
| CCMSI, Insurance Carrier/TPA | RESPONDENT |

OPINION FILED JANUARY 13, 2016

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant represented by JASON M. HATFIELD, Attorney, Fayetteville, Arkansas.

Respondents represented by CURTIS L. NEBBEN, Attorney, Fayetteville, Arkansas.

STATEMENT OF THE CASE

On October 20, 2015, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on July 1, 2015, and a pre-hearing order was filed on July 1, 2015. A copy of the pre-hearing order has been marked Commission's Exhibit No. 1 and made a part of the record without objection.

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

2. On all relevant dates, the relationship of employee-employer-carrier existed between the parties.

3. The claimant's weekly compensation rates are temporary total disability \$436.00 and permanent partial disability \$327.00.

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

1. Whether the claimant sustained a compensable injury to her low back on February 5, 2015.

2. Whether the claimant is entitled to medical benefits.

3. Whether the claimant is entitled to temporary total disability benefits from February 16, 2015 to a date to be determined.

4. Whether the claimant's attorney is entitled to attorney's fees.

The claimant's contentions are as follows:

"Claimant sustained a compensable injury while working for respondent on or about February 5, 2015. At that time, claimant was in the course and scope of her employment when she injured her low back, sustaining a lumbar fracture at L1.

Respondents have controverted this claim and have failed to pay medical bills.

Charlotte Robinson has been employed with respondent for approximately ten years. Her job duties require her to bend, lift, pull, and reach 20 pound rolls of cardboard throughout the day as a machine packager. On February 5, 2015, claimant felt acute pain in her lower back. The pain continued to get worse and she reported the incident on February 11, 2015. Claimant was sent to the physician's assistant at the Arkansas Occupational Health Clinic. Physical therapy was ordered and caused claimant excruciating pain. Claimant performed her physical therapy in the morning before work and after the second physical therapy session she could no longer take the pain. Claimant went to the emergency room at Siloam Springs, where a CT scan determined she had a compression fracture. Claimant received treatment from another physician's assistant, named Candace Harper. Candace Harper testified that the treatment for compression fractures is bracing and inactivity. Ms. Harper further testified that physical therapy would cause increased pain in a compression fracture.

It is claimant's contention that she sustained an acute compression fracture at work while lifting and twisting. The fracture was missed on x-ray, which happens according to Candace Harper. The condition was made worse by activity and improper medical treatment and was discovered with the better study - that being a CT scan. The reference to osteopenia on the CT scan was incorrect and the bone density scan conclusively provided claimant to have normal bone. Claimant continues to be off work under the care of Dr. Tucker."

The respondents' contentions are as follows:

"The respondents contend the claimant did not sustain an injury arising out of and in the course of her employment."

The claimant in this matter is a 54-year-old female who was employed by the respondent as a "wrapper machine operator" on February 5, 2015 when she alleges to

have suffered a compensable injury to her low back. At the hearing in this matter, the claimant described her job duties as a "wrapper machine operator" as follows:

Q Ms. Robinson, I received a demonstrative packet of donuts from the Respondents' attorney. Does this look like what you work on?

A It is exactly what I do.

Q Okay. So it is a packet of six powdered donuts that sit on a piece of cardboard and it is wrapped in plastic; is that right?

A Correct.

Q Okay. The way I understand it is you have this machine and the powdered donuts are coming down it; is that right?

A Uh-huh.

Q Yes?

A Yes.

Q And part of your responsibility is to make sure that machine has the cardboard that the donuts sit on; is that right?

A Correct.

Q And also make sure that the machine has the plastic that the donuts are wrapped in?

A Correct.

Q Okay. And will you describe what the plastic looks like in its original form before it is put on the machine and before the machine cuts it and wraps the donuts.

A It comes in a round ball, I mean, with a hole in the center so that we can put the film on the machine. It is tightly wrapped. I believe it is 29 pounds of film. When you pick it up, it is 29 pounds of film.

Q Okay. And when you say you pick it up, where is the film located?

A It is on a pallet.

Q Okay. And do you bend over to pick it up?

- A Yes.
- Q And then what do you do with it then to load it?
- A Then I -- we move it to our work area. And then to load it, we have to pick the film up and place it on the -- I don't know what they call it, but place it tightly on the machine and thread it through the machine.
- Q Okay. And that is the clear plastic that wraps the donuts?
- A Yes, sir. Correct.
- Q So will you explain this piece of cardboard that the donuts sit on.
- A Yes. It comes in a round oversized roll of cardboard tightly wrapped and it's -- I don't -- I don't know the exact, I mean, space, but it is what you have to take off of a pallet and you have to put it on the machine, also.
- Q Okay. And when you were explaining that, you had your arms raised almost above your head like you were doing it.
- A Correct. The machine has -- the wrapper machine has two spots for the cardboard and, so, one is up higher and you have to lift it up above your head, above my head and put it on the machine. And then there is one that is lower so that when one is emptied, the other one then just takes over so that we won't lose any machine -- any donuts being wrapped.
- Q How tall are you?
- A Five foot six.
- Q And you said that you work on two machines?
- A Correct.
- Q And so is this -- since you have been a wrapper machine operator, is this what your job duties are primarily throughout the day each day?
- A Correct.
- Q When you started as a wrapper machine operator, were you having any problems doing the job?
- A No, sir.

Q Were you having any physical -- did you have any physical restrictions that prevented you from doing this job?

A No, sir.

Q And prior to this case that we are here about, had you ever filed a Workers' Comp claim before?

A No. Never.

The claimant also gave testimony regarding her belief as to how she sustained her alleged February 5, 2015 low back injury as follows:

Q Okay. Tell the Court about the injury that you sustained on February 5, 2015, at McKee Foods.

A I was doing my wrapper job and I was -- I was getting this cardboard off a pallet and putting it on my pallet and as I moved the cardboard, I hurt my back.

Q So were you bent over?

A Yes, sir.

Q Okay. And you said you were moving it from one pallet to another?

A Correct.

Q What day of the week was this that this occurred?

A It was on a Thursday.

Q Was it early in the day; late in the day? When was this?

A It was late in the shift.

Q Okay. And is Thursday the last day of your work week?

A Yes, sir.

Q Did you report the injury?

A I did not.

Q Okay. Did you return to work at McKee Foods the following Sunday?

- A I did.
- Q And how were you feeling when you got there that day?
- A I actually felt a little better.
- Q Okay. And what did you do over the weekend?
- A I pretty much just rested, okay. I took it very easy. And I didn't even go to church on Saturday. I go to church on Saturday. I just stayed home and rested.
- Q Okay. How did your back feel as the week progressed? You said you showed up at work on Sunday. Describe how you felt as you did your wrapper job.
- A It seemed to get to hurt worse.
- Q Okay. Were there things that you did that made it hurt worse than others?
- A Yes. Picking up the cardboard was one of them. Picking up the barrels -- we have what we call chops. If the donut doesn't turn out just perfect like his does, they fall off into a barrel and I picked up that barrel of chops and that hurt, too.
- Q So bending and lifting were aggravating your condition?
- A Yes.
- Q Do you have anyone that you work close with that can help you?
- A I do.
- Q Who is that?
- A Her name is Lu Vang. She is my partner. She runs the other two wrappers and I run my two wrappers.
- Q As your pain increased that following week, what did Lu do to help you out?
- A She would go get my cardboard for me. She would also pick up my film. She would help me put the film and the cardboard on the machines.
- Q Describe how you were feeling by the end of the week.
- A I was in a lot of pain.

Q So what did you do?

A On Wednesday I saw Paul Ramey and I told Paul that my back was hurting and I asked to go home on Wednesday.

Q And is that this February 11th that is documented that you left early?

A Yes, February 11th.

Q Okay. Why did you wait so long to tell somebody?

A I've been hurt before and I always think it is going to get better and I thought this was simply a pulled muscle. I just thought it would get better.

Q Did it?

A No, sir, it did not.

Q Okay. Ultimately, did you get sent to the McKee nurse?

A I did.

Q And where did they send you for treatment of this injury?

A To the I call it the Workmen's Comp. I don't know exactly what it is called, but it is a Workmen's Comp office over in Lowell.

Q Does the Arkansas Occupational Clinic sound right?

A Yes, it does.

Q Okay. And what kind of treatment did they recommend or prescribe for you?

A He said to put ice on it. Just, you know, they said, basically, to take Ibuprofen. I had a sprain.

Q Did --

A That is what they told me.

Q Did they send you to physical therapy?

A Yes, they did.

The claimant was seen by Physician's Assistant J. Daniel Nicholas at the Arkansas Occupational Health Clinic on February 16, 2015. Physician Assistant Nicholas authors a letter to the respondent regarding the claimant's visit as follows:

"At the request of and authorization by McKee Foods, we are seeing Ms. Charlotte Robinson. We are seeing Ms. Robinson today for an injury to her lower back that occurred on 02-05-15. The patient states that she was moving a roll of cardboard from a pallet and she felt something in her lower back. She gradually started getting pain which worsened over the next couple of days. She was seen by a nurse practitioner at the company and was prescribed some Prednisone. She has had a burning and aching pain, especially with positional changing movements like going from sitting to standing. She has had decreased range of motion. She denies any numbness or tingling in her lower extremities. She does have a little bit of pain radiating down her right leg, but it doesn't go as far as the knee.

At the time of her visit today her pulse is 76; blood pressure 126/84; respirations 16; height 67 inches; weight 194 pounds; temperature 97.7. Examination of Ms. Robinson reveals that she has mild tenderness to palpation of her lower back slightly worse on the right side. She has decreased range of motion with bending and twisting motions in her lower back and flexion at the hips which was worse on the right side. She has normal reflexes and circulation of her lower extremities.

An x-ray was examined of her lower back. It was seen to have no acute abnormalities. There were no dislocations or fractures.

Her diagnosis is lumbar strain. She was given a Medrol Dosepack by a nurse practitioner. I advised that she continue with that and finish it out. If she wasn't taken that I would have given her an injection of Depo-Medrol today. I would like to refer her over to physical therapy since this injury has been persistent and hasn't responded to anti-inflammatories in about a week and a half. I am hopeful that physical therapy will be a good modality that will help her healing process occur more rapidly. I would like her to do six sessions of PT, three times a week for two weeks and then I will see her back after that. In the meantime, she can continue to work with the following restrictions. She needs to be given a chance to sit or stand as signs and symptoms allow. She needs to limit her lifting, pushing and pulling to less than ten pounds of force. She needs to avoid excessive bending and twisting at the waist. I am hopeful that the next 1-3 weeks will greatly improve Ms. Robinson's condition. I will recheck her again in three weeks to reevaluate her condition."

As noted in Physician Assistant Nicholas' letter to the respondent, the claimant was treated in part through physical therapy. At the hearing, the claimant gave testimony regarding the physical therapy she underwent and its effects on her body.

Q Okay. Back to this when you went to the occupational clinic February 16th, they prescribed some physical therapy?

A Yes.

Q And was that through their facility?

A Yes.

Q And how did the physical therapy make your back feel?

A I hurt worse after I left physical therapy.

Q How many days did you do the physical therapy?

A I did it twice.

Q And what was the day that you did the second physical therapy?

A February 23rd, a Monday.

Q Okay. Were you supposed to go to work that day?

A Yes, sir.

Q And describe exactly how you were feeling when you got out of physical therapy.

A I had a lot of pain. My back was extremely hurting, hurting extremely bad. When I got into my car to leave, I could hardly get into my car and I thought, no pain, no gain, Charlotte. Keep going.

Q Okay. Did you go home first?

A I did.

Q Okay. Then just describe what happened after you --

A I got home and went into the house to change clothes so I could go to work and I was crying and I said to my husband, "My back hurts so bad," and he said, "Don't go to work, Charlotte." And I said, "Well, I have taken

off Tuesday and Wednesday of this week, so if I can just make it through today," I said, "I won't get a point."

Q Did you drive to work?

A I did.

Q Okay. And did you attempt to get out of your car?

A I did.

Q And how did you feel?

A I was very much in pain.

Q So what happened at that point?

A I called my husband and I said, "Come and get me, David, because I can't go any further." Then I called McKee Foods and I said, "I can't make it in."

Q Where did David take you?

A He took me to the Siloam Springs Hospital.

Q And was a CAT scan performed?

A It was.

Q And what was your understanding of what was causing your pain?

A They told me I had a compression fracture on lumbar one, which I didn't really understand what a compression fracture was, but it was very, very painful.

Q Okay. Has your back ever completely stopped hurting from the time you were lifting at work February 5th?

A No, sir.

Q What activities made it worse?

A Well, twisting, moving, getting out of the car.

Q What kinds of things did they have you doing at physical therapy?

A Some twisting and moving.

Q And what kinds of things in between there made your back feel better?

A Rest. Large doses of Ibuprofen.

On February 23, 2015, the claimant reported to the Siloam Springs Regional Hospital Emergency Department with complaints of low back pain. Following is a portion of the medical record from her visit:

“02/23

15:46 This 53 yrs old Female presents to ED via POV with complaints of Back Pain.

15:46 The patient presents with pain that is acute, and an injury, and spasm, and swelling, and tenderness, and weakness, from muscle spasm. The symptoms are located in the low back, lumbar area, left low back and right low back. The pain radiates to the lumbar spine. Onset: The symptoms/episodes began/occurred gradually, since 2/4/2015. Patient went to the physical therapist today and since she has been gradually worse. Associated signs and symptoms: Pertinent positives: nausea, weakness, back. The risk factors for risk of a malignancy are: The patient does not have any risks for malignancy. The problem was sustained when bending over, from twisting, patient with bending and twisting today the back is worse rotation from the right to the left side. Patient did take Flexeril and ibuprofen today pain is a 10/10. She has only had x-rays from the practitioner. Was told is was muscle strain/sprain lumbar spine. Today the hip area is sore. Modifying factors: the patient symptoms are aggravated by bending, standing, walking. Severity of symptoms: in the emergency department the symptoms a “10” out of “10”. The patient has experienced a previous episode, approximately 3 weeks ago. The patient has experienced a previous episode. The patient has been recently seen by a physician: the patient’s primary care provider. Patient was seen by the company doctor at the little Debbie’s place of employment.

15:56 today patient did state that the heat form physical therapy did help. She works from 2-10 pm and she is unable to go to work.”

The claimant also underwent a CT Scan of her lumbar spine without intravenous contrast on that same day. A portion of that diagnostic report follows:

“FINDINGS:

The bones are very osteopenic. There is a compression fracture in L1, this measures 40 to 50%. There is no retropulsion of bony fragment. No other fractures are identified. There is no canal stenosis or neural foraminal narrowing. Intervertebral disc spaces are maintained.

IMPRESSION:

1. Osteopenia.
2. Acute compression fracture in the L1 vertebral body.”

On February 24, 2015, the claimant was again seen by Physician’s Assistant Nicholas. Following is a letter that Physician Assistant Nicholas authored to the respondent regarding the claimant’s visit.

“At the request of an authorization by McKee Foods, we are seeing Ms. Charlotte Robinson. We are seeing Ms. Robinson today for an early recheck of a back injury that occurred on 02-05-15. The patient states that she got out of her car yesterday and felt the pain suddenly got worse in her middle back. She felt incapacitated and was unable to move with any comfort so she was stuck in the back of her car for a couple of hours [sic] while someone went to get her. They then went to the emergency room and they did a CT. She states that the CT shows a compression fracture of her back.

At the time of her visit today her pulse is 88; blood pressure 122/80; respirations 14; height 67 inches; weight 191 pounds; temperature 98.8. Examination of Ms. Robinson reveals significantly worse symptoms than her last visit. She has some point tenderness to palpation on the upper part of her lumbar spine. She has significant decrease in range of motion and has pain with weight bearing or ambulation. She brought in a CD with the CT on it and it was reviewed as well as the report from the radiologist. The report which corresponds with the images states that there is a compression fracture of L1 that measures 40-50%. They also noted that the bones overall were very osteopenic. No other fractures were identified. These images were compared to the x-rays that were taken on 02-16-15 and there was no compression fracture evident at that time. Somehow between the 16th and the 23rd of February she was able to achieve a compression fracture, most likely because of her severe osteopenia . The exact mechanism of injury for this fracture is unknown, however, she needs to be referred to a neurosurgeon for evaluation and stabilization.

Her diagnosis is compression fracture. The best treatment at this point is to refer her to Dr. Barr or one of his associates at Washington Regional Medical Center. Her expected duration of treatment is unknown. Surgery is not a likely option with this kind of fracture, but it is possible that the neurosurgeon will want to make that decision. She needs to be off work until her evaluation with Dr. Barr. She was given prescriptions for Oxycodone and OxyContin by Dr. Moffitt who had an extensive conversation with Ms. Robinson. We haven’t scheduled any

more appointments to see her here as we would like to transfer care to Dr. Barr or another neurologist.”

On February 25, 2015 the claimant was seen by Dr. David Tucker at Ozarks Community Hospital’s Gravette Clinic. Following is a portion of the medical record from that visit.

“HISTORY OF PRESENT ILLNESS: She is her [sic] for second opinion and follow-up of lumbar compression fracture. She was seen by company physician several times, seen in OccuMed. She had been doing a lot of lifting of rolls of cardboard at work, had been bent over to do so. She reports she had the sudden onset of severe pain in her back where she had to drop the cardboard. She reports that the pain eased up somewhat although she was not able to go back to doing the same work she had. She was able to finish her job but had to do it much slower and had to lift smaller amounts. She reports that was around 02/07. She reports it got worse on Sunday; however, appeared to get better for a period of time. On Thursday she had increased pain. She reports she went to OccuMed on the 15th. They scheduled physical therapy which she had on Monday and Tuesday. She reports physical therapy was quite painful; in fact, the therapist did not want to continue as she was having quite a bit of pain. She had leaned over and had the onset of severe pain. She was then seen again and noted to have L1 compression fracture. Apparently her claim is being disputed, indicating that she got her injury on her other job although she reports she really had not done any activity there and had been having continuous back problems since the lifting of the rolls of cardboard. It did get better for a couple of days but then got significantly worse. She reports physical therapy made it a lot worse.

She had some x-rays with her which were reviewed. On 08/14/14 she was having some back pain from a different cause, was more in her hip and sacroiliac region than where it is now. It was actually much lower. Her x-rays at that time were viewed and compared with x-rays taken after injury and there is a 3.5mm decrease in the anterior height of the L1 vertebra when compared with the previous x-ray. The posterior heights are the same.

There is no doubt that the fracture had occurred at the time of the first x-ray and through activity got significantly worse. She has no neurologic symptoms at this time. She is having quite a bit of pain, is unable to do very much.”

On March 12, 2015, the claimant was seen at the Northwest Arkansas Neuroscience Institute by Physician Assistant Candace Harper. Following are the history of present illness and discussion/summary portions of that medical record.

“History of Present Illness

Vertebral Compression Fracture: The patient is being seen for a consultation regarding vertebral compression fracture. This is a fracture of L1. Fracture etiology: osteoporosis, minor trauma. (February 23, 2015. Pt. Was getting out of car to go to work w/sudden onset of pain Pt. Had previous work-related accident, was sent to PT, feels PT may have worsened, was going to work and had sharp onset of pain) She was previously evaluated in the emergency room. Past treatment has included bracing. (Evaluated by Arkansas Occupational health for work-related back injury. Days later had sudden onset of severe back pain where fracture was) Symptoms: left arm numbness, no arm weakness, no leg numbness and no leg weakness. The patient presents with complaints of back pain (low/mid back pain) The patient is currently experiencing symptoms. No associated symptoms are reported. Current treatment includes bracing.

Discussion/Summary

Patient with work-related injury 2/3/15 and was seen and treated by Arkansas Occupational Health Clinic. She was referred to physical therapy. States PT would make her “sore”. Was getting in her car on 2/23/15 where she felt sharp severe pain, went to ER and found L1 compression fracture on CT she was referred to us for care of her L1 compression fracture which is not considered work related. She presented to WRMC ER on 3/2/15 due to pain where xrays show stable L1 fracture. She is in her Jewitt brace, states she will get up occasionally without the brace. We will ask her to get xrays today to compare. She is to continue wearing her brace, lifting restrictions of 10lbs. Recheck in 1 month if xrays stable today. Will leave off work due to her fracture until seen in 1 month and will re-evaluate at that time. Pt. to f/u sooner if worsens.”

The claimant continued to be seen both by Dr. David Tucker and by Physician Assistant Candace Harper. It appears from the medical records and from the deposition of Physician Assistant Candace Harper taken on September 30, 2015, that Dr. Tucker and Physician Assistant Harper to some extent disagree on the cause of the claimant’s lumbar compression fracture that was first seen in the CT taken at the Siloam Springs Regional Hospital on February 23, 2015.

Dr. Tucker authored a letter to the claimant's attorney dated July 10, 2015 regarding his belief about the claimant's current condition and its cause.

"She was seen on 8/14/14 for recurrence of her chronic sciatica. The notes at that time specifically indicate she had no tenderness on any of the lumbar spine. The tenderness was in the muscle and down into the buttocks of the sciatic nerve. She had an x-ray of the lumbar spine taken at that time, which showed no radiographic abnormality. On 2/25/15 she saw me and brought in x-rays taken after her injury. It showed subtle but definite difference in appearance from those taken back in August. I think without the previous x-rays for comparison it may be difficult to tell. However, when doing direct measurements and comparing there is no question there is a change in appearance at those initial x-rays that they had taken. Specifically approximately 3.5 mm decrease in the anterior height of the L1 vertebra while the posterior vertebral heights were the same. By her history and x-rays findings there is no doubt in my mind that her fracture was a direct result of that initial February 5th injury, which was made worse by in appearance by her physical activity, physical therapy, and other movements. I think it would have been impossible for her to have sustained that type of injury just getting into a vehicle especially since we have bone density exams, which show no evidence of osteopenia or osteoporosis. I also note that I have known Ms. Robinson for over 25 years and have known her to have significant pain tolerance. I also know that she has worked several jobs through most of the past many years and know that she is an extremely hardworking individual. I do not feel that she would have had significant problems with therapy if there was not a significant injury. I would also note that when I first saw her on 2/25/15 she asked me for my opinion regarding when the injury occurred. I felt indeed the injury did not occur with her initial lifting and did indeed occur later on and that she was not interested in pursuing workman's compensation for that."

It appears that Physician Assistant Harper believes that the claimant's compression fracture did not happen on February 5, 2015, but happened sometime thereafter. She indicated in her deposition that she believed the pain the claimant had expressed or relayed that occurred on February 23, 2015 would be more closely associated with that type of lumbar compression fracture. Clearly Dr. Tucker disagrees.

It is the claimant's burden of proof that she suffered a compensable injury to her low back on February 5, 2015. The claimant must prove the existence of objective medical

findings which here are clearly present given the CT Scan that was performed on February 23, 2015 and its revelation that the claimant had indeed suffered a compression fracture of the lumbar spine. However, the claimant must also prove a causal connection between her alleged February 5, 2015 injury and the objective medical findings of a compression fracture of the lumbar spine. The claimant testified that her low back pain did not resolve from the February 5, 2015 incident and continued including worsening with physical therapy and getting out of her vehicle on the February 23, 2015. As to the claimant's credibility, given the testimony of Sterling Paul Ramey and Pamela Stacy, and the claimant's general demeanor and forthrightness in answering questions at the hearing, along with her impressive attendance at work, I do believe that this is a highly credible witness. I also agree with Dr. Tucker over Physician Assistant Harper as to the cause of the compression fracture. Here, the claimant is able to prove a causal connection between her objective medical findings and her February 5, 2015 work place injury. As such, the claimant has proven by a preponderance of the evidence that she suffered a low back injury while employed by the respondent on February 5, 2015. That injury includes the compression fracture noted in the CT Scan.

The claimant has also asked the Commission to consider her entitlement to medical benefits. The claimant has received medical treatment from Dr. Tucker, Siloam Springs Regional Hospital Emergency Room, a Physical Therapist, and at least two Physician's Assistants. All the medical treatment that has been placed into evidence is reasonable and necessary medical treatment for the claimant's compensable injury.

The claimant has also asked the Commission to consider her entitlement to temporary total disability benefits beginning February 16, 2015 to a date yet to be determined. After review of Dr. Tucker's medical records and off work slips, it is clear that at the time of the hearing of this matter, the claimant had not been returned to work and would remain temporarily totally disabled and is entitled to benefits as such.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witnesses and to observe their demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on July 1, 2015, and contained in a pre-hearing order filed July 1, 2015, are hereby accepted as fact.

2. The claimant has proven by a preponderance of the evidence that she suffered a compensable injury to her low back on February 5, 2015 which would include a compression fracture to her lumbar spine.

3. The claimant has proven by a preponderance of the evidence that she is entitled to reasonable and necessary medical treatment regarding her compensable injury.

4. The claimant has proven by a preponderance of the evidence that she is entitled to temporary total disability benefits from February 16, 2015 to a date yet to be determined.

5. The claimant has proven by a preponderance of the evidence that her attorney is entitled to an attorney's fee in this matter commensurate with the benefits awarded herein in the Arkansas Workers' Compensation Act.

ORDER

The respondents shall be responsible for payment of reasonable and necessary medical treatment for the claimant's compensable low back injury including her compression fracture of the lumbar spine.

The respondent shall pay the claimant temporary total disability benefits from February 16, 2015 to a date yet to be determined.

The respondents shall pay to the claimant's attorney the maximum statutory attorney's fee on the benefits awarded herein, with one half of said attorney's fee to be paid by the respondents in addition to such benefits and one half of said attorney's fee to be withheld by the respondents from such benefits pursuant to Ark. Code Ann. §11-9-715.

All benefits herein awarded which have heretofore accrued are payable in a lump sum without discount.

This award shall bear the maximum legal rate of interest until paid.

If they have not already done so, the respondents are directed to pay the court reporter, Veronica Lane, fees and expenses within thirty (30) days of receipt of the invoice.

IT IS SO ORDERED.

ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE