

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F411634

WANDA BRADLEY,  
EMPLOYEE

CLAIMANT

WASHINGTON REGIONAL MEDICAL CENTER,  
EMPLOYER

RESPONDENT

CANNON COCHRAN MANAGEMENT SERVICES,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED MARCH 15, 2006

Upon review before the FULL COMMISSION in Little Rock,  
Pulaski County, Arkansas.

Claimant represented by the HONORABLE EVELYN BROOKS,  
Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE TOD BASSETT,  
Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and  
Adopted.

OPINION AND ORDER

Claimant appeals an opinion and order of the  
Administrative Law Judge filed May 5, 2005. In said  
order, the Administrative Law Judge made the following  
findings of fact and conclusions of law:

1. The stipulations agreed to by the  
parties at the pre-hearing conference  
conducted on January 26, 2005, and  
contained in a pre-hearing order filed

that same date, are hereby accepted as fact.

2. Claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury to her back while working for the respondent.

The claimant alleges that she sustained a compensable injury that is governed by the Arkansas Workers' Compensation Act, A.C.A. § 11-9-101 et seq. The claimant's alleged injury is, indeed, an injury that is covered by the Act; however, the claimant has failed to establish the elements necessary to prove a compensable injury by a preponderance of the evidence.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Therefore we affirm and adopt the May 5, 2005 decision of the Administrative Law Judge, including all

findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

**DISSENTING OPINION**

The Majority has found that the claimant did not prove the occurrence of a compensable injury. Because I believe this finding is contrary to the claimant's credible testimony and supporting medical records, I must respectfully dissent from the Majority's Opinion.

The claimant alleged that she suffered an injury to her lower back on June 17, 2004. The claimant, who was employed as a housekeeper in the respondent's medical facility, testified that she was attempting to empty a bucket of mop water at approximately 8:30 p.m. on the evening of her injury. While emptying the mop bucket into a sink, she felt a

sharp, sudden pain in her lower back. The claimant completed her shift and returned to her home that evening. However, the following day, which was her scheduled day off, the pain continued to get worse and she eventually sought medical treatment from the Northwest Family Clinic in Springdale. A chart note generated by that facility, dated June 19, 2004, sets out that the claimant complained of worsening lower back pain. The note also states that the claimant told them that she had pain in her lower back for the past two days and, "the pain started at work but denies specific injury."

After reporting the injury to her employer, the claimant was referred to the Lowell Medical Clinic where she saw Max Beasley, a nurse practitioner, on June 23, 2004. A Commission Form 3, generated as a result of that visit, dated June 23, 2004, indicates that the claimant told Mr. Beasley, "she was dumping a bucket and felt a sharp pain in middle to low back."

After the respondent controverted her claim, the claimant sought treatment from Dr. Stephen Spencer, a Springdale general practitioner, who directed the claimant undergo an MRI scan of her lumbar spine. A

report relating to that scan, dated October 18, 2004, notes a presence of a posterior left lateral disc protrusion at L4-L5 which is indenting the interior left lateral aspect of the thecal sac with disc material impressing upon the left L5 nerve root.

The Majority, in adopting the Administrative Law Judge's rationale, is denying this claim for essentially two reasons. The first reason is that the claimant did not report her injury to her employer until two days after its occurrence. In my opinion, this minor lapse is of no great significance. The claimant, like many people, attempted to work through her injury and finish her shift. The following day, which was a regular day off, she rested attempting to recover from her injury. However, by the next day, when she was scheduled to return to work, she was in severe pain and realized that she needed medical attention. At that time, when it was apparent that the injury was not merely transitory back pain, but a serious problem, she notified her employer. Of much greater significance are the claimant's consistent statements to her medical providers that her injury was job related. She not only advised the personnel at the Northwest Family Clinic

that her injury occurred at work, but she specifically explained in her visit to the Lowell Medical Center, the respondent's physician of choice, that her injury occurred while emptying a bucket. In my opinion, the claimant's credible testimony coupled with the contemporaneous statements made to medical providers is more than sufficient evidence to establish that the incident she complained about occurred.

The other basis for denying this claim was the claimant's past history of occasional back pain. In fact, the claimant reported two job-related back injuries in 2000 to her employer at that time. However, both of these were minor injuries in which the claimant received some conservative medical treatment and returned to work without further symptoms. These injuries were not severe enough to justify her doctors directing her to undergo an MRI or similar scan and there is no indication that these problems resulted in any more than occasional back pain. However, after her injury in June 2004, the claimant became disabled and was unable to return to work. Further, she reported radicular symptoms and related problems which are in

accord with the herniated disc found by the October 2004 MRI.

I also note that the type of injury discovered by this MRI is of the type normally associated with a traumatic injury. It appears unlikely for the claimant to have had this injury for a period of over four years prior to the hearing, as contended by the respondent, and not have had similar symptoms severe enough to keep her from working.

For the reasons set out above, I respectfully dissent from the Majority's Opinion.

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SHELBY W. TURNER, COMMISSIONER