

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. F702623

ANN BARBER, EMPLOYEE	CLAIMANT
MAGAZINE SCHOOL DISTRICT, EMPLOYER	RESPONDENT
ARKANSAS SCHOOL BOARD ASSOCIATION, CARRIER	RESPONDENT

OPINION FILED MARCH 8, 2010

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

Claimant represented by the HONORABLE MICHAEL HAMBY,  
Attorney at Law, Greenwood, Arkansas.

Respondent represented by the HONORABLE JAMES ARNOLD,  
Attorney at Law, Fort Smith, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals and respondent cross appeals from a decision of the Administrative Law Judge filed June 18, 2009.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On March 6, 2007, the relationship of employee/self-insured employer/third-party administrator existed between the parties.

3. On March 6, 2007, the claimant earned wages sufficient to entitle her to weekly compensation benefits of \$192.00 for total disability and \$154.00 for permanent partial disability.
4. The claimant has proven by the greater weight of the credible evidence that, on March 6, 2007, she sustained a compensable injury to her "tail bone" on coccyx. Specifically, she has established by medical evidence, which is supported by objective findings, the actual existence of this physical injury. She has further proven by the greater weight of the credible evidence that his injury arose out of and occurred in the course of the employment, was caused by a specific incident, is identifiable by time and place of occurrence, caused internal physical harm to her body, and required medical services or resulted in disability.
5. The claimant has failed to prove by the greater weight of the credible evidence that, on March 6, 2007, she also sustained compensable injuries to her back, right hip, and right knee. Specifically, she has failed to prove by the greater weight of the credible evidence that any difficulties which she may have experienced with these portions of her body, after March 6, 2007, were the result of physical injuries to these portions of her body that were in any way caused by the specific employment-related incident of March 6, 2007. Thus, she has failed to prove the occurrence of physical injuries to these portions of her body that arose out of and occurred in the course of her employment, were caused by a specific incident, and are identifiable by time and place of occurrence.
6. The claimant was rendered temporarily totally disabled as a result of her compensable "tail bone" or coccygeal injury for the period of

March 7, 2007 through February 8, 2008. Specifically, she has proven by the greater weight of the credible evidence that during this period, she continued within her healing period from the effects of her compensable coccygeal injury and was also rendered totally disabled solely as the result of the effects of this compensable injury. She would not be entitled to temporary total disability benefits during any portion of this period wherein she received her regular salary from the respondents.

7. The respondents have denied the occurrence of any compensable injuries to any portions of the claimant's body in a specific employment-related accident on March 6, 2007. The respondents have controverted the claimant's entitlement to any and all benefits.
8. The claimant's attorney is entitled to the maximum statutory attorney's fee on the controverted temporary total disability benefits herein awarded and on any subsequent indemnity benefits which may hereinafter be awarded to the claimant.

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.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in accordance with Ark Code Ann. § 11-9-715 (Repl. 2002).

Thus, we affirm and adopt the 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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A. WATSON BELL, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Hood concurs and dissents.

**CONCURRING AND DISSENTING OPINION**

I must respectfully concur, in part, and dissent, in part, from the majority opinion. After a de novo review of the record, I agree with the majority that the claimant sustained a compensable coccyx injury. I also agree that the claimant did not prove compensable injuries to her right hip and right knee. However, the medical records almost immediately following the claimant's accident contain objective findings supporting the claimant's credible testimony that she also sustained a back injury during the accidental fall. I would award benefits for the claimant's back injury, therefore, I must dissent from the majority's denial of benefits for this injury.

The claimant testified that on March 6, 2007 she was performing her assigned employment activities, which included engaging in recreational activities with the students. While playing basketball with the students, one of the students bumped into her and caused her to fall. She stated that she fell landing initially on her buttocks, then onto her back, and finally striking her head. I find, as did the Administrative Law Judge, that the claimants testimony concerning the fall on March 6, 2007 is credible. The

description of the accident given by the claimant in her testimony at the hearing coincides with the description that she repeatedly gave to all her various physicians.

As the claimant has established that a specific incident fall where she landed on her buttocks and her back occurred at work on March 6, 2007, the next question is what injuries did she sustain during the fall? I find that the claimant has proved by a preponderance of the evidence that in addition to the coccyx injury found compensable by the majority, she also sustained a compensable injury to her lower back. Arkansas Courts have long recognized that a causal relationship may be established between an employment-related incident and a subsequent physical injury based on evidence that the injury manifested itself within a reasonable period of time following the incident so that the injury is logically attributable to the incident, where there is no other reasonable explanation for the injury. Hall v. Pittman Construction Co., 234 Ark. 104, 357 S.W.2d 263 (1962). Here, the medical records show that on March 13, 2007, the claimant was assessed as having "low back pain, must watch for coccygeal fracture." The plan on this date indicated "To let me know Friday or Monday if still a lot of

pain and we would arrange CT scan of the LS spine and particularly the coccyx." This medical report also noted "Patient left in no apparent distress other than back pain." On March 27, 2007 a Radiology Report states:

HISTORY: Low back and coccyx pain, fall.

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IMPRESSION:

1. At L3-4, there is a left foraminal disc bulge with left foraminal stenosis.
2. At L4-5 there is a right foraminal disc bulge with mild right foraminal stenosis.
3. Findings were called to Dr. Enns.

The majority, by affirming and adopting the Administrative Law Judge, dismisses the claimant's complaints of back pain, as the Administrative Law Judge stated that Dr. Enns "clearly placed no particular significance on these degenerative changes as his diagnosis of the claimant's difficulties continued to be limited to the coccygeal area." While this may be true, it does not detract from the fact that the claimant fell at work, hitting her lower back, complained of pain in the lower back immediately after the fall, and has objective findings of injury to the lower back. The fact that the claimant was experiencing greater pain in the coccyx does not somehow negate an objectively proved injury to the lower back.

For the aforementioned reasons I must concur, in part, and dissent, in part, from the majority opinion.

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PHILIP A. HOOD, Commissioner