

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F700216

ELIZABETH DANIELS, EMPLOYEE	CLAIMANT
LITTLE ROCK SCHOOL DISTRICT, EMPLOYER	RESPONDENT
ARKANSAS MUNICIPAL LEAGUE, CARRIER/TPA	RESPONDENT

OPINION FILED MARCH 8, 2010

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

Claimant represented by the HONORABLE STEVEN MCNEELY,
Attorney at Law, Little Rock, Arkansas.

Respondent represented by the HONORABLE J. CHRIS BRADLEY,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals from a decision of the
Administrative Law Judge filed July 17, 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. The claimant earned sufficient wages to entitle her to an average weekly wage of \$492.17 so as to be entitled to a TTD rate of \$328.00 and a PPD rate of \$246.00.

3. The employer/employee relationship existed between the parties on or about December 15, 2006.
4. The claimant suffered compensable injuries and the respondents paid benefits. The respondents do not accept an alleged neck injury as compensable.
5. The claimant was granted a change of physician on September 8, 2008, to her family doctor, Dr. Carol Caruthers.
6. The claimant has failed to establish by a preponderance of the credible evidence that the herniated C4-5 disk indicated by MRI on October 8, 2008, is in any way causally related to the injuries that she sustained when she fell from a bus at work on December 15, 2006.
7. Because the claimant has failed to establish by a preponderance of the evidence that the herniated disk which was causing her disability beginning in February of 2009 was causally related to her compensable injuries sustained on December 15, 2006, I find that the claimant has also failed to establish that she is entitled to any additional period of temporary total disability currently at issue in this claim.

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.

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.

A. WATSON BELL, Chairman

KAREN H. McKINNEY, Commissioner

Commissioner Hood dissents.

DISSENTING OPINION

I must respectfully dissent from the majority opinion. After a de novo review of the record, I find the evidence shows that the claimant proved by a preponderance of the evidence that she sustained a compensable C4-5 disk injury when she fell from the top step of her school bus, striking another school bus with her neck and ribs on December 15, 2006.

The crux of this claim is that there are two MRI reports: the first showing a bulging disc, and the second showing a herniated disc. The claimant's treating physician, her family physician, Dr. Carol Sue Caruthers, has given the only opinion on causation, linking the herniated disk and the claimant's need for surgical intervention to the claimant's fall from the bus on December 15, 2006. The first MRI dated April 9, 2007 showed:

C4-C5:

Mild broad-based bulge. Mild Luschka joint arthropathy is present both to the left and right of midline. Widely patent central canal and neural foramen. Flattening of the thecal sac ventral margin.

The second MRI, dated October 8, 2008 showed:

At the C4-C5 level, there is a broad-based central and slightly left paracentral disc herniation. There is associated posterior bony osteophyte formation as well. This causes a moderate-sized ventral impression on the thecal sac at this level. There is also bilateral Luschka joint disease with foraminal narrowing.

Dr. Caruthers stated:

Ms. Daniels has been our patient for several years. She had a fall from a bus in December of 2006 with injury to her neck, shoulder and arm. She was treated subsequently by Dr. Brent Sprinkle. He

ordered an MRI of the cervical and thoracic spine on 4/9/07.

Ms. Daniels has continued to have progression of her symptoms since this time. She saw a neurosurgeon, Dr. Scott Schlesinger, who offered conservative therapy with epidural steroid injections, physical therapy and cervical traction.

Her symptoms never resolved and she has been on daily narcotic pain medication and muscle relaxers. She continued therapy with Dr. Sprinkle in 2007 without relief.

I ordered another MRI 10/08/08 which showed progression of disc herniation at the C4-C5 level. Where there was only flattening of the thecal sac, there is now a moderate sized impression on the thecal sac at this same location.

She was referred to another neurosurgeon, Dr. Tim Burson, because of the severity of her symptoms. The pain is more severe on her left side. She now has numbness and tingling in her fingers with relative weakness of her left deltoid muscle.

It is reasonable to suppose that her current condition is related to the findings after the initial injury of 12/15/06 with a progression of the cervical disc herniation. I would ask that you also contact Dr. Burson regarding the benefit of a surgical procedure to correct this problem.

The majority, by affirming and adopting the Administrative Law Judge, has resolved the crux of this

claim by giving Dr. Caruther's medical opinion no weight. I find that the crux should be resolved by affording Dr. Caruther's medical opinion great weight. Dr. Caruthers is the claimant's treating physician. She has treated the claimant for her neck injury and various other complaints throughout the entire time period of this claim. Her opinion is the only medical opinion offered regarding causation, and should be the deciding factor in this claim.

In conclusion, I find that the claimant has proved by a preponderance of the evidence that she sustained a compensable C4-C5 disc injury during the bus fall on December 15, 2006. I accord Dr. Caruther's medical opinion regarding causation great weight and it is my opinion that the claimant's medical condition progressed as outlined by Dr. Caruthers. I would award the claimant reasonably necessary medical treatment for the compensable neck injury as well as corresponding temporary total disability benefits.

For the aforementioned reasons I must respectfully dissent.

PHILIP A. HOOD, Commissioner