

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOSEPHINE LINKER HART, JUDGE

DIVISION III

CA07-77

October 10, 2007

PATRICIA WHITE

APPELLANT

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. F504690]

V.

DOLLAR GENERAL STORES

APPELLEE

REVERSED AND REMANDED

The Arkansas Workers' Compensation Commission found that appellant, Patricia White, "failed to establish the elements necessary to prove a compensable injury by a preponderance of the evidence." Among other arguments, appellant contends that "the Commission simply does not provide a statement of facts which it finds to be established by the evidence in sufficient detail that the truth or falsity of the allegations can be proven...." We agree, and accordingly, we reverse and remand for further proceedings.

As noted in the Commission's opinion, appellant testified that she injured her back on April 28, 2005, while employed by appellee, Dollar General Stores, and that she reported the injury the same day. The testimony was disputed regarding whether she reported the

injury immediately. An MRI from June 14, 2005, showed an “[a]cute to subacute compression fracture or Schmorl’s node defect involving the superior endplate of L2.” Appellant’s treating physician noted “[l]ow-back pain with muscle spasm” on May 5, 2005, and “[l]ow-back pain with compression fracture of L2” on June 23, 2005. In a letter dated July 26, 2005, her physician was asked, “Do you appreciate any objective findings of injury which you attribute to her work injury of April 29, 2005, and if so, what?” Appellant’s physician replied, “Back pain in a patient [with] no previous history of back problems. Tenderness and decreased range of motion on physical exam. Probable L2 compression fracture on MRI from 6-14-05.” In a letter dated August 8, 2005, appellant’s physician wrote that appellant “is disabled at this time, secondary to a back injury.”

The Commission found that appellant “failed to meet her burden of proof.” The Commission wrote that “[t]he only evidence in the record of the claimant sustaining an injury is the claimant’s own self-serving testimony,” and stated further that “[i]n our opinion, the claimant’s credibility is suspect at best.” The Commission also wrote that the testimony of the store manager “also supports a finding that the claimant has failed to meet her burden of proof.” Further, the Commission found that the “medical records also do not support a finding of compensability.” The Commission concluded that, “[a]fter considering all the evidence in the record, the fact that the claimant has had back problems since 1989, the fact that she failed to tell [the store manager] at the time of this alleged incident that she hurt her back, plus the questionable credibility of the claimant, we cannot find that the claimant

proved by a preponderance of the evidence that she sustained a compensable injury on April 28, 2005.” Further, it concluded that appellant “has failed to establish the elements necessary to prove a compensable injury by a preponderance of the evidence.”

A “compensable injury” is an “accidental injury causing internal or external physical harm to the body ... arising out of and in the course of employment and which requires medical services or results in disability or death.” Ark. Code Ann. § 11-9-102(4)(A)(i) (Supp. 2007). Further, an “injury is ‘accidental’ only if it is caused by a specific incident and is identifiable by time and place of occurrence.” *Id.* A compensable injury must be “established by medical evidence supported by objective findings....” Ark. Code Ann. § 11-9-102(4)(D). “Objective findings” are “those findings which cannot come under the voluntary control of the patient.” Ark. Code. Ann. § 11-9-102(16)(A)(i). Further, objective medical evidence is necessary to establish the existence and extent of an injury but is not essential to establish the causal relationship between the injury and a work-related accident. *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999).

While the Commission found that appellant failed “to establish the elements necessary to prove a compensable injury,” it failed to make specific findings regarding which elements of a compensable injury were not met. Consequently, we are unable to review its decision. For instance, we do not know if the Commission found that appellant did not suffer an injury, that it was not accidental, that it did not arise out of or in the course of employment, that it did not result in disability, or that it was not established by medical evidence supported by

objective findings. When the Commission fails to make specific findings of essential facts, reversal and remand of the case is appropriate. *Wright v. Am. Transp.*, 18 Ark. App. 18, 709 S.W.2d 107 (1986).

Reversed and remanded.

BIRD and GRIFFEN, JJ., agree.