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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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LINDA C. CZERNYSZ, *Petitioner Employee,*

*v.*

THE INDUSTRIAL COMMISSION OF ARIZONA, *Respondent,*

SPROUTS FARMERS MARKET, *Respondent Employer,*

ACE AMERICAN INSURANCE COMPANY, *Respondent Carrier.*

No. 1 CA-IC 18-0078

FILED 1-23-2020

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Special Action - Industrial Commission

ICA Claim No. 20172-920250

Carrier Claim No. 0537-WC-17-0002426

The Honorable Layna Taylor, Administrative Law Judge

**AWARD AFFIRMED**

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COUNSEL

Linda C. Czernysz, Prescott  
*Petitioner Employee*

Industrial Commission of Arizona, Phoenix  
By Gaetano J. Testini  
*Counsel for Respondent*

Jardine Baker Hickman & Houston PLLC, Phoenix  
By Charles G. Rehling  
*Counsel for Respondent Employer and Carrier*

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**MEMORANDUM DECISION**

Judge Kent E. Cattani delivered the decision of the Court, in which Presiding Judge Maria Elena Cruz and Chief Judge Peter B. Swann joined.

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**C A T T A N I**, Judge:

¶1 Linda C. Czernysz seeks special action review of an Industrial Commission of Arizona award and decision upon review denying her workers' compensation claim. For reasons that follow, we affirm the award.

**FACTS AND PROCEDURAL BACKGROUND**

¶2 Czernysz transferred to an Arizona location of Sprouts Farmers Market ("Sprouts") from an out-of-state store in February 2017. The Arizona store opened in March 2017, with Czernysz working as a "scan coordinator," a job that required her to make ad signs, hang sale tags, and print and audit these tags and signs.

¶3 Czernysz experienced difficulties at work when she and a co-worker started to clash about how to perform their jobs. The co-worker often criticized Czernysz's methods and eventually complained about Czernysz to a scan coordinator at another Sprouts store. Czernysz requested mediation to resolve her issues with the co-worker, but "nothing came of her request." Czernysz also contacted the company's human resources manager, but "nothing in particular" happened as a result.

¶4 In August 2017, Czernysz had problems with the computer system and the printer, which prevented her from printing tags and completing other tasks. That same day, the assistant produce manager reprimanded Czernysz after she failed to sign some documents. Czernysz began crying and told another worker that she needed to go home, which she did. The next day, she went to her primary care doctor, who told her to take a leave of absence due to anxiety and stress and prescribed a mild dose of an anti-depressant. Eventually, Czernysz went back to work at the same Sprouts store in the bakery section as a clerk.

¶5 In October 2017, Czernysz filed a workers' compensation claim alleging anxiety and stress caused by ongoing bullying, victimization,

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and intimidation. The insurance carrier denied her claim, and she requested a hearing before an administrative law judge (“ALJ”).

¶6 Following a hearing at which Czernysz, the co-worker, the store manager, and another employee testified, the ALJ found that Czernysz’s stress was not objectively unexpected, unusual, or extraordinary as required to establish a compensable injury under A.R.S. § 23-1043.01(B). The ALJ noted that “conflicts with co-workers,” “dealing with faulty equipment,” and “changes in business procedures” are common in business. The ALJ characterized Czernysz’s response to the events as “a gradual buildup of emotions” that did not constitute a compensable industrial injury.

¶7 After the ALJ affirmed the decision upon review, this timely statutory special action followed. We have jurisdiction under A.R.S. §§ 12-120.21(A)(2), 23-951(A), and Arizona Rule of Procedure for Special Actions 10.

**DISCUSSION**

¶8 In reviewing workers’ compensation awards, we defer to the ALJ’s factual findings but review questions of law de novo. *Young v. Indus. Comm’n*, 204 Ariz. 267, 270, ¶ 14 (App. 2003). We consider the evidence in the light most favorable to upholding the ALJ’s award and will affirm if reasonable evidence supports it. *Lovitch v. Indus. Comm’n*, 202 Ariz. 102, 105, ¶ 16 (App. 2002); *see also Phelps v. Indus. Comm’n*, 155 Ariz. 501, 506 (1987).

¶9 As she did before the ALJ, Czernysz asserts that she was subjected to a “hostile work environment” and “harassment.” But an appeal is not a second chance to re-argue the facts of a case; instead, we review the record only to determine if substantial evidence supports the ALJ’s findings, giving deference to the ALJ when there is conflicting evidence. *See Meno’s Constr., L.L.C. v. Indus. Comm’n*, 246 Ariz. 521, 524, ¶ 10 (App. 2019).<sup>1</sup>

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<sup>1</sup> In addition to challenging the sufficiency of the evidence, Czernysz appears to assert two evidentiary errors: the first concerning a subpoena she requested and the second an objection to the exclusion from evidence of documents she submitted to the ALJ as “Appendix A.” The record does not support Czernysz’s assertion that she submitted a subpoena request to the ALJ for the witness she mentions in her brief. Additionally, the hearing

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¶10 Here, the record supports the ALJ’s factual findings and conclusion that Czernysz failed to meet her burden of proving that her claim was compensable. See *Ibarra v. Indus. Comm’n*, 245 Ariz. 171, 174, ¶ 14 (App. 2018). The ALJ considered all the testimony presented, including Czernysz’s perceptions and feelings about the events. The ALJ’s conclusion that Czernysz failed to show that the circumstances she experienced were *objectively* “unexpected, unusual, or extraordinary” but were, instead, part of starting up a new store location is supported by substantial evidence in the record.

¶11 To be compensable, a mental injury must be substantially caused by “some unexpected, unusual or extraordinary stress related to the employment.” A.R.S. § 23-1043.01(B). Whether that type of cause has been shown is a legal conclusion, not a medical one. *Barnes v. Indus. Comm’n*, 156 Ariz. 179, 182 (App. 1988). Emotional distress is determined from an objective standpoint, not a subjective one. *Id.* at 181–82; *Lapare v. Indus. Comm’n*, 154 Ariz. 318, 319–20 (App. 1987) (construing the statute to require that the event that produces the stress, not just the claimant’s response to it, be unexpected, unusual, or extraordinary). Not every emotional condition, even if work-related, is compensable. *Sloss v. Indus. Comm’n*, 121 Ariz. 10, 11 (1978).

¶12 Substantial evidence supports the ALJ’s finding that the stress Czernysz experienced was not unexpected, unusual, or extraordinary. Relationships with co-workers, like many relationships, can be strained, especially in tense circumstances. Here, the employer had mechanisms in place to deal with stressful work-related issues, primarily through the store manager, who was available to help resolve difficult situations. And Czernysz did not present any evidence of outrageous conduct on the part of the employer or an employee. Compare *Irvin Investors, Inc. v. Superior Court*, 166 Ariz. 113, 115 (App. 1990) (holding sexual molestation by fellow employee was an unexpected injury-causing event covered by workers’ compensation). The record thus supports the ALJ’s conclusion that the emotional distress Czernysz experienced did not rise to the level of unexpected, unusual, or extraordinary.

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record shows that Appendix A was excluded from admission into evidence by the ALJ, who described it as “articles about bullying” and determined that it was irrelevant to the issues before her. We agree.

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**CONCLUSION**

¶13

For the foregoing reasons, we affirm the award.



AMY M. WOOD • Clerk of the Court  
FILED: AA