

Cite as 2023 Ark. App. 468

**ARKANSAS COURT OF APPEALS**

DIVISION II

No. CV-22-645

ARKANSAS ENTERPRISES FOR THE  
DEVELOPMENTALLY DISABLED,  
INC., EMPLOYER, AND RISK  
MANAGEMENT RESOURCES,  
CARRIER/TPA

APPELLANTS

V.

SANDRA K. SCOTT

APPELLEE

Opinion Delivered October 25, 2023

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. H102239]

REVERSED

---

**RAYMOND R. ABRAMSON, Judge**

Arkansas Enterprises for the Developmentally Disabled, Inc., appeals the Full Commission's opinion finding that Sandra Scott was entitled to additional medical treatment, temporary total-disability (TTD) benefits, and attorney's fees.<sup>1</sup> Appellant argues that fair-minded persons with the same facts before them could not have reached the same conclusion as the Commission; we agree and reverse.

---

<sup>1</sup>The Commission reversed the November 29, 2021 finding of the administrative law judge (ALJ) denying that Scott sustained a compensable injury in the form of a rotator-cuff tear; denying that she was entitled to reasonable and necessary care; and denying that she was entitled to TTD benefits or attorney's fees.

At the September 23, 2021 hearing before the ALJ, Scott contended that she injured her shoulder in the course and scope of employment on January 9, 2020; that appellant initially accepted the claim as compensable and sent her to Concentra for treatment; that she was diagnosed as having a shoulder sprain and was sent back to work full duty on January 17, 2020; that appellant has denied the claim; that she was forced to obtain treatment on her own and went to see Dr. Michael Hussey, who ordered an MRI that revealed a massive rotator-cuff tear; that she underwent surgery to repair the rotator-cuff tear in December 2020; that she sustained a compensable left shoulder injury, which would entitle her to medical benefits, TTD benefits, and attorney's fees.

Appellant contended that all appropriate benefits were paid; that Scott was released to a full-duty capacity on January 17, 2020, and no permanent impairment was assigned; that Scott had no complaints of problems with her shoulder for 164 days; that she continued to work in a full-duty capacity during that time frame; that Scott had medical treatment during that time frame and did not mention any issues with her shoulder; that her request for medical treatment was not reasonable and necessary; and that the claim was not formally denied until November 13, 2020. As noted above, the ALJ found in favor of the appellant.

On appeal, the Commission reversed the ALJ finding:

Based on our de novo review of the entire record, the Full Commission finds that the claimant has proven by a preponderance of the evidence that she is entitled to additional medical treatment as provided by Dr. Hussey and temporary total disability benefits starting on December 4, 2020 and continuing until July 30, 2021. The

claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. § 11-9-715(a) (Repl. 2012).<sup>2</sup>

The standard of review in workers' compensation cases is well settled. We view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings and affirm the decision if it is supported by substantial evidence. *Sharp Cnty. Sheriff's Dep't v. Ozark Acres Imp. Dist.*, 75 Ark. App. 250, 253, 57 S.W.3d 764, 766 (2001). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Id.* The issue is not whether we might have reached a different result or whether the evidence would have supported a contrary finding; if reasonable minds could reach the Commission's conclusion, we must affirm its decision. *Id.*

Arkansas Code Annotated section 11-9-102(4)(A)(i) (Supp. 2023) defines "compensable injury" as "[a]n 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." An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of the occurrence. *Id.* Additionally, a compensable injury must be established by medical evidence supported by objective findings, which are findings that cannot come under the voluntary control of the patient. Ark. Code Ann. § 11-9-102(4)(D).

---

<sup>2</sup>Scott was, at the time pro se; the Commission found that her former attorney would be entitled to five hundred dollars.

Appellant accepted a compensable shoulder strain in the case before us. However, the issue is whether Scott sustained a compensable injury by specific incident in the form of a torn left rotator cuff. The ALJ found that appellant was not responsible for treatment for the rotator-cuff tear, while the Commission found that appellant was responsible for any natural consequence that flows from the injury—and causally connected the shoulder strain to a torn rotator cuff.

Scott worked for the employer in transportation and as an instructor. She would pick clients up in the mornings, instruct during the day, and then take clients home in the evenings. On January 9, 2020, she slipped while getting into her truck, jerking her left shoulder. She kept working but reported it later that day. She was treated and engaged in physical therapy. Dr. Scott Carle released her as having reached maximum medical improvement on January 17, 2020.

On February 25 and March 31, 2020, Scott went to her primary-care physician's (PCP's) office and never mentioned her shoulder. On June 30, she returned to her PCP and reported left shoulder pain. Between her January release date and the June 30 visit to her doctor, Scott continued doing her regular job as both a driver and instructor. Both jobs were physically demanding, and she passed an Arkansas Department of Transportation physical on August 11, 2020.

On August 3--on her own--Scott went to see Dr. Michael Hussey, who ordered an MRI after she said could not lift her shoulder. The MRI, completed on August 13, showed a large rotator-cuff tear. Dr. Hussey opined that had Scott sustained the rotator-cuff tear

during the January 9, 2020 compensable work injury, she would have continued to be symptomatic with pain and dysfunction after her January 17, 2020 release. He testified that it would be “near impossible” for her to deny pain or tenderness and have full range of motion at the time of her release by Dr. Carle, and it would be “exceedingly uncommon” for her not to mention pain or dysfunction to her PCP at the subsequent visits. Dr. Hussey further stated that his surgical recommendation was less than 51 percent related to the mechanism of injury from the January 9th incident.

As the Commission’s dissenting opinion notes, there is no elaboration or citation to specific facts; the majority opinion simply concludes that the claimant’s rotator-cuff tear was causally connected to her work accident, and the majority “cannot separate it as a separate injury that requires a determination of compensability.” We agree with appellant and the dissenting opinion that there is no evidence in the record to support the finding that these two injuries--the shoulder strain and the torn rotator cuff--are causally connected, while there is evidence “aplenty to indicate that the two are not causally connected.” Therefore, we do not believe reasonable minds could have accepted this conclusion. Accordingly, we reverse the Commission’s finding.

Reversed.

KLAPPENBACH and THYER, JJ., agree.

*Worley, Wood & Parrish, P.A.*, by: *Melissa Wood*, for appellant.

One brief only.