

DIVISION II

**ARKANSAS COURT OF APPEALS**

No. CA 07-253

MARISA BOBO

APPELLANT

V.

ARBOR OAK HEALTHCARE REHAB  
and GALLAGHER BASSETT  
SERVICES, INC.

APPELLEES

**Opinion Delivered** OCTOBER 24, 2007APPEAL FROM THE WORKERS'  
COMPENSATION COMMISSION  
[NO. F601308]REVERSED AND REMANDED FOR  
ADDITIONAL FINDINGS**JOHN B. ROBBINS, Judge**

This is a workers' compensation claim in which the claimant was denied benefits related to a fall she sustained at work on January 11, 2006. The Commission denied the claim for medical care and temporary total disability benefits on the basis that she did not prove that she sustained a work-related injury by objective medical findings. We remand.

Appellant Marisa Bobo, a woman in her mid-twenties, worked for appellee Arbor Oaks Healthcare Rehab as a certified nursing assistant. It was undisputed that on the relevant date, she was walking down a hallway to clock in to her work shift shortly before 6:00 a.m. when she slipped and fell on a slippery floor. Her right knee hit the floor, and she also caught herself by placing her right hand on the floor. Appellant proceeded to clock in and work until noon that day. Appellant testified that she was able to physically do chores at home that evening, but the next morning, her right shoulder was sore. Appellant called her employer to report this, and she was told she could go to the emergency room for an evaluation. At the hospital,

she was given x-rays of her shoulder, viewed as normal, and was given muscle-relaxing medication. Appellant was fired on January 19 for having tested positive for cocaine. Appellant underwent physical therapy through April 18, at which time appellant thought her shoulder had healed and she could go back to work if she still had a job.

The parties litigated compensability, the employer arguing in part that appellant was not performing employment services at the time of her alleged injury. This issue was resolved in favor of appellant and is not at issue on appeal. The other basis for contesting compensability was the lack of objective findings to support the existence of a compensable injury. On this issue, appellant did not prevail. Both the administrative law judge (ALJ), and the Commission by affirming and adopting the ALJ decision, found that appellant failed to present any objective findings to demonstrate that she sustained a shoulder injury in the fall at work. The ALJ noted:

The January 13, 2006 x-rays revealed a normal right shoulder. The sparse medical evidence did not mention any swelling or muscle spasms or other objective findings. Because the employer sent appellant to the emergency room, it was found responsible for that single visit. No other medical care was authorized as compensable thereafter because the ALJ and the Commission deemed this claim non-compensable. None of the other medical evidence was examined or explained in the ALJ opinion. The issue of a causative link between any injury and the work fall was never reached. The Commission, in a divided two-to-one vote, affirmed and adopted the ALJ decision. The dissenting Commissioner set forth more detail regarding the medical care and pointed to later x-rays taken in March that

had some discussion of a shoulder malady evident on film. Appellant appealed from the Commission's majority decision denying benefits to our court.

In reviewing decisions from the Workers' Compensation Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings, and we affirm if the decision is supported by substantial evidence. *See Whitlach v. Southland Land & Dev.*, 84 Ark. App. 399, 141 S.W.3d 916 (2004). Substantial evidence exists if reasonable minds could reach the Commission's conclusion. *Id.* When a claim is denied because the claimant has failed to show an entitlement to compensation by a preponderance of the evidence, the substantial-evidence standard of review requires us to affirm if the Commission's opinion displays a substantial basis for the denial of relief. *Id.* A claimant is entitled to know the factual basis upon which a claim is denied, and absent such findings, the appellate court is not in a position to make a meaningful review of the decision of the Commission. *See McCoy v. Preston Logging*, 21 Ark. App. 68, 74, 728 S.W.2d 520 (1987); *Wright v. Am. Transp.*, 18 Ark. App. 18, 21, 709 S.W.2d 107 (1986).

Any medical evidence used to establish the existence of the injury must be supported by objective findings. Ark. Code Ann. § 11-9-102(4)(A)(i) & (D) (Supp. 2005). Objective medical evidence establishes the existence and extent of the injury. *Stephens Truck Lines v. Millican*, 58 Ark. App. 275, 950 S.W.2d 472 (1997). The Commission has the duty of weighing medical evidence as it does any other evidence, and the resolution of conflicting evidence is a question of fact for the Commission. *Public Employee Claims Div. v. Tiner*, 37 Ark. App. 23, 822 S.W.2d 400 (1992). A finding of a compensable injury cannot be based on

speculation or conjecture. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002).

Appellant asserts that the Commission, via the ALJ decision it adopted, arbitrarily disregarded the medical evidence she presented showing some objective sign of injury. Specifically, she points to the January 13 emergency room notes that accompany the “normal” x-ray taken that day. Therein, the doctor assesses her with a “possible subluxation of AC process and clavical.” In that note, the doctor suggests that she follow up with her family doctor. In later treatment, including an x-ray taken on March 17, 2006, the report shows “slight up-riding of the distal end of the clavical. . . . AC widening right shoulder.” Appellant argues that the ALJ and Commission completely ignored this medical evidence. We must agree.

It is the province of the Commission to weigh conflicting medical evidence; however, the Commission may not arbitrarily disregard medical evidence or the testimony of any witness. *Patchell v. Wal-Mart Stores, Inc.*, \_\_\_ Ark. App. \_\_\_, \_\_\_ S.W.3d \_\_\_ (May 19, 2004); *Hill v. Baptist Med. Ctr.*, 74 Ark. App. 250, 48 S.W.3d 544 (2001). Because the Commission and ALJ’s opinion does not address these relevant pieces of medical information, we reverse their opinion and remand this case for additional findings. See *Excelsior Hotel v. Squires*, 83 Ark. App. 26, 115 S.W.3d 823 (2003). We make no comment on the impact of this evidence; we merely require findings upon which we can perform meaningful review.

Reversed and remanded for additional findings.

PITTMAN, C.J., and GLADWIN, J., agree.