

Please Read Instructions on Reverse Side of Yellow copy

Arkansas State Claims Commission

AUG 8 2018

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

- Mr. Mrs. Ms. Miss

Ms Tandra Jean Hadley, Claimant

vs.

State of Arkansas, Respondent

Do Not Write in These Spaces. Claim No., Date Filed (Month Day Year), Amount of Claim \$, Fund

COMPLAINT

Tandra J Hadley

the above named Claimant, of



County of represented by (Legal Counsel, if any, for Claim)

of (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) says:

State agency involved: UAMS

Amount sought:

Month, day, year and place of incident or service: 7-2-18

Explanation: On this day above, I was trying to pull mother in to the elevator. It was then close real fast when that happen closed me in it mashing me, on my butts + hips low back. I then had to get out of the door to the elevators. My lower back was hurt in the process. I went to the hospital that they didn't take my injury serious. Not one officer came to file the police report. So up this matter. In extracting that my rights was violate by the officer. So on behave UAMS handle. I want to be compensated for my anxious, pain suffering, this could be a problem after the rest of my life. They said they payed the doctor bill. What my pain my health. I'm sewing for pain and UAMS for they reason.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

(Yes or No) when? (Month) (Day) (Year) to whom? (Department) and that the following action was taken thereon: Nursing & Doctor's UAMS

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? if so, state name and address

(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code) and that the nature thereof is as follows:

: and was acquired on, in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

Tandra Hadley (Print Claimant/Representative Name)

Tandra Hadley (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Little Rock, AR (City) (State)

PATRICIA A DYKES Notary Public - Comm# 12693968 My Commission Expires Apr 30, 2025

on this 8th day of August, 2018 (Date) (Month) (Year)

Patricia A. Dykes (Notary Public)

My Commission Expires: 4 30 2025 (Month) (Day) (Year)

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TANDURA JEAN HADLEY

CLAIMANT

V.

CLAIM NO. 190201

**UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the claim of Tandura Jean Hadley (the “Claimant”) against the University of Arkansas for Medical Sciences (the “Respondent”). At the hearing held on April 12, 2019, Claimant appeared *pro se*. Sherri L. Robinson appeared on behalf of Respondent.

Based upon a review of the pleadings, testimony, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed her claim seeking compensation for personal injuries sustained when an elevator door on Respondent’s Little Rock campus closed on her on July 2, 2018.
2. Respondent filed an answer denying liability.
3. The Claims Commission scheduled a hearing to consider Claimant’s claim.
4. At the hearing, Claimant testified that in addition to the damages listed in her claim, she also cut her foot on the elevator and is seeing medical providers regarding her foot. Claimant stated that she has co-pays related to those visits. Claimant appeared at the hearing wearing a medical boot on one foot. Claimant stated that after the incident on July 2, 2018, Claimant went home because her mother was with her and did not go to Respondent’s emergency room until the next morning when she was unable to get out of bed. Claimant also testified that she was pinned between the elevator doors and estimated the time that she was pinned at “5 to 10 minutes” or “a few minutes.” Claimant stated that two people helped to pry her from the elevator but that she did

not get their names and that no one reported the incident to Respondent after she was freed from the elevator. On cross-examination, Claimant admitted that there was no mention of her foot injury in her claim documents.

5. Upon a question from a commissioner, Claimant testified that \$10,000.00–\$15,000.00 would compensate her for this incident.

6. Claimant’s mother, Rosie Montgomery, testified briefly that two people had to help get Claimant out of the elevator.

7. Robert Airo, business manager for Respondent, testified that he oversees all 109 elevators on the Little Rock campus, including elevator maintenance. He stated that he investigates incident, sends reports to the State Elevator Safety Division, and oversees the annual inspections of the elevators and the inspections that occur upon a complaint. Airo testified that Respondent has two full-time elevator mechanics on campus. Airo stated that he received a report regarding Claimant’s incident on July 3, 2018, after which he checked all of the B-Bank elevators in the patient towers, including checking the elevators on multiple floors, and found no issues. Airo stated that the elevator mechanics also checked the elevators and found no issues. However, Airo testified that, pursuant to procedure, he notified the State Elevator Safety Division of the incident. Airo also testified that he spoke with Claimant to confirm which elevator was involved, after which time he and the elevator mechanics all checked the elevator. Airo stated that there have been no other complaints or similar incidents with the elevator. Airo also stated that, in the more than five years that he has been in his position, he has never heard of a situation where an elevator closed on a person and did not immediately re-open. On cross-examination, Claimant disagreed with Airo which elevator was involved in her incident.

8. Candace Conners, a patient representative for Respondent, testified that she has a masters degree in nursing administration and a bachelor degree in nursing. She testified that on

July 3, 2018, she reviewed the incident, including the elevator report and Claimant's charts, x-rays, and emergency room records, to determine whether there was an injury. Connors testified that Claimant has previously suffered from back pain and has been diagnosed with disc degeneration and arthralgia through previous visits to Respondent in 2015 and 2016. Connors testified that Claimant had no swelling in the emergency room and that the charts reflected that she was in "no apparent distress." Connors stated that there was no mention of her foot in any of the incident records. Connors testified that, as a courtesy, Claimant's emergency room bills were written off, such that she had no out-of-pocket expenses for her emergency room visit. On cross-examination, Claimant stated that she was not lying and that her bladder started leaking after this incident.

9. The elements of a negligence claim are duty, breach of duty, and damages proximately caused by the breach. *See Chambers v. Stern*, 347 Ark. 395, 406, 64 S.W.3d 737, 744 (2002). The Arkansas Supreme Court stated that "negligence is never presumed . . . [even] from proof of the happening of an accident and resulting injury." *Missouri Pac. R. Co. v. Baum*, 196 Ark. 237, 117 S.W.2d 31 (1938); *see also* Arkansas Model Jury Instruction 603 ("The fact that an injury occurred is not, of itself, evidence of negligence . . . on the part of anyone").

10. In *Otis Elevator Co. v. Faulkner*, 288 Ark. 344, 705 S.W.2d 428 (1986), the Arkansas Supreme Court considered whether there was sufficient evidence of the elevator company's negligence to support the jury's verdict against the elevator company. In finding that there was sufficient evidence to support the verdict, the Arkansas Supreme Court relied on testimony that there had been prior incidents with the elevator and that, although the elevator company had recommended that an essential elevator part be repaired or replaced, the work had not been completed prior to the incident. The Arkansas Supreme Court referenced two other cases, in which plaintiffs injured by elevators were awarded damages based on prior incidents on the

elevators that justified a finding of negligence. *Otis Elevator v. Robinson*, 287 F.2d 62 (5th Cir. 1961); *Otis Elevator Co. v. Jackson*, 325 F.2d 260 (5th Cir. 1963).

11. Applying this law to the instant claim, the Claims Commission finds that there is no evidence of negligence. There was no testimony to establish that the elevator had any prior issues. In fact, Airo testified to the contrary that in the five years he has worked in his position, he has not heard of any similar situation or had any other similar incidents involving those elevators. Moreover, Airo's testimony regarding the stringent elevator maintenance protocol was persuasive. As such, the Claims Commission does not have any evidence to determine that Respondent was negligent in its maintenance of the elevators.

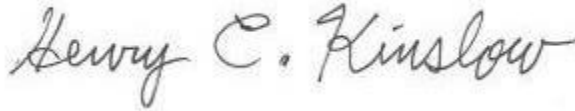
12. Because the Claims Commission cannot conclude that Respondent was negligent in maintaining the elevators, the Claims Commission need not analyze Claimant's damages.

13. Claimant's claim is hereby DENIED and DISMISSED.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, Co-Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: April 18, 2019

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b)(3). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(b). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

Cause of appeal

Arkansas
State Claims Commission

MAY 17 2019

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Respondents, did in fact lie about what happened in the emergency room on July 3, 2018. I was in pain and still in pain when I left the ER. I also sat waiting for a police officer to come to do the report, in which your ~~respondent~~ respondent team said the police were in fact on their way, in which was a lie on your ER parts. Fact of the matter was I came in about my hips, butt, legs. I myself, didn't think in my wildest dream that ~~my~~ ER would lie about their patient. These here respondents speak of in fact should have been court too. In what do you mean no cost out of my pocket. The pain that I'm going through now, is a big cost to me. My life and my health mean to your ER. The elevator was not working on July 02, 18

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Mrs. Sherril Robinson

I ~~wrote~~

I'm writing this letter for appeal on the ruling.

I Sandra Hadley

Arkansas
State Claims Commission

MAY 17 2019

To Mrs. Sherri L. Robinson

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On the day that I was denied in court, was in fact a lie on behalf of the UAMS staff. No one felt my or is feeling my pain but me. I was in fact close in your elevator and for your staff of to lie said was feeling better is a lie. I never told the nurses or anyone else I was alright, for you all to say that under oath, was in fact perjury ~~to~~ to the highest of the law. So I am write this letter of appeal, on my behalf, because I'm still in pain all day everyday.

I Sandra Husley