

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F213357

JAMES MEDLOCK, EMPLOYEE

CLAIMANT

**BRANDON'S SERVICE CENTER, EMPLOYER
UNINSURED**

RESPONDENT

OPINION FILED AUGUST 27, 2003

Hearing before Administrative Law Judge Dail Stiles on July 25, 2003, in Hot Springs, Garland County, Arkansas.

Claimant represented himself Pro Se.

Respondent represented by Mr. Orvin W. Foster, Attorney at Law, Mena, Arkansas.

A hearing was held on July 25, 2003, to determine the compensability of the claim filed herein.

There were no stipulations.

The claimant contends he was an employee of the respondent on September 28, 2002.

The claimant contends that he sustained an injury to his eye arising out of and during the course and scope of his employment on September 28, 2002. The claimant seeks payment of medical bills.

The respondent contends that the Arkansas Workers' Compensation Commission does not have jurisdiction over this claim because the respondent did not have the requisite number of employees to subject him to the jurisdiction of the Arkansas Workers' Compensation Act.

The respondent controverts the claim in its entirety.

STATEMENT OF THE CASE

The claimant was doing welding repair on a truck for the respondent on September 28, 2002. He was chipping at some slag on the weld when a piece

of slag flew off and struck him in the eye. The claimant had to receive medical treatment for that injury.

The claimant was asked how many employees Mr. Brandon, the owner of Brandon's Service Center, had and the claimant replied that he only had one, the claimant. The claimant was asked if at any time in the approximately six months the claimant worked for the respondent if the respondent had more than just one employee, and the claimant replied that the respondent did not employ any other people during the time the claimant worked for the respondent.

FINDING OF FACT

The Arkansas Workers' Compensation Commission does not have jurisdiction over this claim because the respondent does not have the requisite number of employees to subject him to the Act.

DISCUSSION

Ark. Code Ann. §11-9-102(11) entitled "employment" states:

(A) Every employment in the state in which three (3) or more employees are regularly employed by the same employer in the course of business except: . . .

The remainder of the statute goes on to point out those employment situations in which employers and various persons are exempt from the basic definition. In this case, however, Ark. Code Ann. §11-9-102(11) is controlling. The respondent, Brandon's Service Center, operated as a service station and employed no other employees other than the claimant, or at least during the time in which the claimant worked, there were no other employees. That being the case, the respondent employer in this matter simply does not have the requisite number of employees to subject him to the jurisdiction of the Arkansas Workers' Compensation Act.

The above claim is respectfully denied and dismissed.

IT IS SO ORDERED.

DAIL STILES
Administrative Law Judge