

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F214306

EDNA FINLEY,
EMPLOYEE

CLAIMANT

EATON CORPORATION,
EMPLOYER

RESPONDENT

CONTINENTAL CASUALTY COMPANY,
INSURANCE CARRIER

RESPONDENT

OPINION FILED JANUARY 20, 2004

The claimant was represented by MR. FREDERICK SPENCER,
Attorney at Law, Mountain Home, Arkansas.

The respondents were represented by MR. CAROL LOCKARD
WORLEY, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

This case was presented to ADMINISTRATIVE LAW JUDGE,
MARK CHURCHWELL for a decision on a stipulated record which
I have "blue backed". The record consists of:

The ALJ's January 13, 2004 memorandum to
file; The ALJ's January 2004 letter; Attorney
Carol Worley's letter to Attorney Frederick
Spencer dated November 11, 2003 with attached
Affidavit and payout history; Attorney Carol
Worley's letter to Attorney Frederick Spencer
dated October 31, 2003 with attached Affidavit and
payout history; The ALJ's October 30, 2003 letter;
Form AR-C with Commission file marked January 7,
2003; Form AR-C with fax notation date December
30, 2002.

By agreement of the parties, the issue to be determined at
this time is whether or not the claimant's claim for
additional compensation is barred by the applicable statute
of limitations.

DISCUSSION

Ark. Code Ann. § 11-9-702 provides in relevant part:

(a) TIME FOR FILING. (1) (A) A claim for compensation for disability on account of an injury, other than an occupational disease and occupational infection, shall be barred unless filed with the Workers' Compensation Commission within two (2) years from the date of the compensable injury.

. . .

(B) For purposes of this section, the date of the compensable injury shall be defined as the date an injury is caused by an accident as set forth in § 11-9-102(5).

. . .

(b) TIME FOR FILING ADDITIONAL COMPENSATION. (1) In cases where any compensation, including disability or medical, has been paid on account of injury, a claim for additional compensation shall be barred unless filed with the Commission within one (1) year from the date of the last payment of compensation, or two (2) years from the date of the injury, whichever is greater.

In the present case, a preponderance of the evidence in the record establishes that the claimant's injury occurred on November 28, 2000. The respondents last paid compensation in the form of medical benefits for treatment which was provided in March of 2001. The claimant's present claim for additional compensation was filed on December 31, 2002. Therefore, the claim for additional compensation at issue, filed on December 31, 2002, was filed more than two

years from the date of injury and more than one year from the last payment of compensation. Therefore, I am constrained to find that the present claim for additional benefits is barred by the applicable statute of limitations contained in Ark. Code Ann. § 11-9-702(b).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The claim for additional benefits filed on December 31, 2002 is barred by the applicable statute of limitations.

ORDER

For the reasons discussed herein this claim is respectfully denied and dismissed.

IT IS SO ORDERED.

MARK CHURCHWELL
Administrative Law Judge