

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F210317

CHARLES A. THOMPSON, EMPLOYEE	CLAIMANT
S.N.C. LAVALIN, EMPLOYER	RESPONDENT
ZURICH AMERICAN INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT

**OPINION FILED APRIL 1, 2004**

Hearing conducted before Administrative Law Judge C. MICHAEL WHITE in El Dorado, Union County, Arkansas.

The claimant was represented by F. MATTISON THOMAS, III, Attorney at Law, El Dorado, Arkansas.

The respondents were represented by MICHAEL R. RYBURN, Attorney at Law, Little Rock, Arkansas.

**OPINION AND ORDER**

A hearing was held in this matter on March 9, 2004. A prehearing conference was conducted on December 2, 2003, and a prehearing order was filed on December 2, 2003. A copy of the prehearing order has been marked as Commission Exhibit No. 1 and made a part of the record without objection.

During the prehearing conference, the parties agreed to the following stipulations:

1. The employer/employee/carrier relationship existed on September 11, 2002.
2. The claimant was earning an average weekly wage of \$410.00, which entitles him to a total disability compensation rate of \$273.00, and a partial disability compensation rate of \$205.00.

During the prehearing conference, the parties also agreed that the issues to be litigated at the hearing were limited to the following:

1. Whether the claimant sustained an injury that is compensable under the Arkansas Workers' Compensation Law.

From a review of the record as a whole, to include the testimony of the claimant, as well as the medical records and other documentary evidence, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. § 11-9-704 (Cumm. Supp. 1997):

### **FINDINGS AND CONCLUSIONS**

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The stipulations agreed to by the parties and set forth above are hereby accepted as fact.
3. The respondents controverted this claim in its entirety.
4. The claimant failed to establish a compensable injury with medical evidence supported by objective findings as required by Ark. Code Anno. §11-9-102(4)(D) (Retl. 2002)
5. The claimant failed to prove by a preponderance of the evidence the elements necessary to establish a compensable injury.

### **DISCUSSION**

The claimant was employed by the respondent-employer as a construction helper. At the beginning of each day the employees clocked in

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and then were transported on a school bus to a large tent on the facility grounds where they would be told during a meeting what they were going to be doing that day. On September 11, 2002 the claimant had clocked in and was waiting at the tent for the meeting to begin when he was stabbed in the hand with a knife by a co-worker named Scott. The claimant described the incident as follows:

"Well, I was standing there and I walked up to him and I said, what's up, man, like that, and he said, not much. I just looked off to my left and I happened to see something kind of coming like this, shadowing towards me. I done like this and when I did, he had a knife in his hand and he stuck it through my hand. It went all the way through the back side."

Apparently the claimant had raised his hand to defend himself when he was struck in the hand by the knife. The claimant testified that he was transported by the respondent-employer to the hospital after this incident; however, I note that no medical records have been submitted documenting the claimant's medical treatment.

Since the claimant in the present claim alleges that he sustained an injury as a result of a specific incident which is identifiable by time and place of occurrence, the requirements of Ark. Code Ann. § 11-9-102(4)(A)(i) (Cumm.

Supp. 1997) are controlling, and the following requirements must be satisfied:

- (1) proof by a preponderance of the evidence of an injury arising out of and in the course of his employment (see, Ark. Code Ann. § 11-9-102(4)(A)(i) (Cumm. Supp. 1997); Ark. Code Ann. § 11-9-102(4)(E)(i) (Cumm. Supp. 1997); see also, Ark. Code Ann. § 11-9-401(a)(1) (Cumm. Supp. 1997));
- (2) proof by a preponderance of the evidence that the injury caused internal or external physical harm to the body which required medical services or resulted in disability or death (see, Ark. Code Ann. § 11-9-102(4)(A)(i) (Cumm. Supp. 1997));
- (3) medical evidence supported by objective findings, as defined in Ark. Code Ann. § 11-9-102(16), establishing the injury (see, Ark. Code Ann. § 11-9-102(4)(D) (Cumm. Supp. 1997));
- (4) proof by a preponderance of the evidence that the injury was caused by a specific incident and is identifiable by time and place of occurrence (see, Ark. Code Ann. § 11-9-102(4)(A)(i) (Cumm. Supp. 1997)).

If the claimant fails to establish by a preponderance of the evidence any of the requirements for establishing the compensability of the injury alleged, he fails to establish the compensability of the claim, and compensation must be denied. Reed, supra.

In the present claim as discussed above no medical records were submitted into the record. Consequently, I find that the claimant failed to establish a compensable injury with medical evidence supported by objective findings as required by Ark. Code Anno. §11-9-102(4)(D) (Retl. 2002).

Accordingly, I find that the claimant failed to prove by a preponderance of the

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evidence the elements necessary to establish a compensable injury.

**ORDER**

Accordingly, based on my review of the entire record and for the reasons discussed herein, I find that this claim must be, and hereby is, denied and dismissed.

IT IS SO ORDERED.

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C. MICHAEL WHITE  
Administrative Law Judge