

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F503517

MATTHEW STAFFORD,
EMPLOYEE

CLAIMANT

INDEPENDENCE COUNTY JUDGE,
EMPLOYER

RESPONDENT

ASSOC OF ARKANSAS COUNTIES WCT,
INSURANCE CARRIER

RESPONDENT

OPINION FILED SEPTEMBER 2, 2005

Case submitted on stipulated record to ADMINISTRATIVE LAW JUDGE MARK CHURCHWELL, in Little Rock, Pulaski County, Arkansas.

The claimant was represented by HONORABLE H. DAVID BLAIR, Attorney at Law, Batesville, Arkansas.

The respondent was represented by HONORABLE GAIL O. MATTHEWS, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

This case was submitted for a decision on stipulated facts. A prehearing order was entered in this case on June 24, 2005. This prehearing order set out the stipulations offered by the parties and outlined the issues to be litigated and resolved at the present time.

The following stipulations were submitted by the parties and are hereby accepted:

1. That they agree that there are no material issues of fact as to whether Claimant was an employee of Independence County, Arkansas, at the time of his injury hereinabove described and that this

threshold issue may be decided by the Administrative Law Judge upon stipulated facts.

2. That Claimant was ordered by the Independence County District Court to perform community service as part of his sentence in a misdemeanor charge.
3. That on December 15, 2004, Claimant reported to the county official in charge of the community service who assigned him to work on an Independence County garbage truck.
4. That on December 15, 2004, while working on the Independence County garbage truck and riding upon the rear in order to pick up garbage bags, he fell from the back of the truck as a consequence of which he sustained facial and dental injuries.
5. That the threshold issue to be decided is whether or not Claimant is entitled to workers' compensation coverage for the December 15, 2004 incident under the workers' compensation policy issued to Independence County by the Association of Arkansas Counties, Workers' Compensation Trust. In the event it is determined that Claimant was an employee of Independence County at the time of the occurrence herein described, the remaining issues should be set for a hearing before the Administrative Law Judge.
6. That Independence County does not pay workers' compensation premiums to the Association of Arkansas Counties, Workers' Compensation Trust for community service.

By agreement of the parties, the issues to be litigated and resolved at the present time were limited to the following:

Claimant:

1. Whether claimant was an employee of the county.

Respondent:

1. Whether or not the claimant was a county employee at the time of his injury.

The record consists of the prehearing order filed on June 24, 2005 and the signed stipulations of the parties filed June 8, 2005, which I have "blue-backed" to designate as part of the record.

DISCUSSION

Arkansas Code Ann. § 11-9-102(9) (A) provides:

"Employee" means any person, including a minor, whether lawfully or unlawfully employed in the service of an employer under any contract of hire or apprenticeship, written or oral, expressed or implied, but excluding one whose employment is casual and not in the course of the trade, business, profession, or occupation of his or her employer and excluding one who is required to perform work for a municipality or county or the state or federal government upon having been convicted of a criminal offense or while incarcerated. [Emphasis added]

Since Matthew Stafford became injured while required to perform work for Independence County upon having been convicted of a criminal offense, I find that Mr. Stafford was not an "Employee" within the meaning of Ark. Code Ann. § 11-9-102(9) (A).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The parties agree that there are no material issues of fact as to whether Claimant was an employee of Independence County, Arkansas, at the time of his injury hereinabove described and that this threshold issue may be decided by the Administrative Law Judge upon stipulated facts.

2. Claimant was ordered by the Independence County District Court to perform community service as part of his sentence in a misdemeanor charge.

3. On December 15, 2004, Claimant reported to the county official in charge of the community service who assigned him to work on an Independence County garbage truck.

4. On December 15, 2004, while working on the Independence County garbage truck and riding upon the rear in order to pick up garbage bags, he fell from the back of the truck as a consequence of which he sustained facial and dental injuries.

5. The threshold issue to be decided is whether or not Claimant is entitled to workers' compensation coverage for the December 15, 2004 incident under the workers' compensation policy issued to Independence County by the Association of Arkansas Counties, Workers' Compensation Trust. In the event it is determined that Claimant was an employee of Independence County at the time of the occurrence herein described, the remaining issues should be set for a hearing before the Administrative Law Judge.

6. Independence County does not pay workers' compensation premiums to the Association of Arkansas Counties, Workers' Compensation Trust for community service.

7. Matthew Stafford was not an employee of Independence County when he sustained his injuries on December 15, 2004.

STAFFORD - F503517

5

ORDER

For the reasons discussed herein, this claim must be,
and hereby is, respectfully denied and dismissed.

IT IS SO ORDERED.

MARK CHURCHWELL
Administrative Law Judge