

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F610865

SALLY WALSH

CLAIMANT

RIVERSIDE FURNITURE CORP.
SELF INSURED

NO. 1 RESPONDENT

SECOND INJURY FUND

NO. 2 RESPONDENT

AMENDED OPINION FILED AUGUST 31, 2007

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Fort Smith, Sebastian County, Arkansas.

Claimant represented by JOE BYARS, JR., Attorney, Fort Smith, Arkansas.

Respondent No. 1 represented by DIANE GRAHAM, Attorney, Fort Smith, Arkansas.

Respondent No. 2 represented by TERRY PENCE, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on July 26, 2007, in Fort Smith, Arkansas.

A pre-hearing conference was held in this claim, and as a result a pre-hearing order was entered in the claim on May 10, 2007. This pre-hearing order set forth the stipulations offered by the parties, the issues to litigate and the contentions thereto.

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

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On August 16, 2006, the relationship of employee-employer-carrier existed between the parties.

3. The claimant is entitled to a weekly compensation rate of \$220.00 for temporary total disability and \$165.00 for permanent partial disability.

By agreement of the parties the issues to litigate are limited to the following:

1. Compensability of the claimant's low back injury.

2. Related medical.

3. The claimant's entitlement to temporary total disability from August 17, 2006, to November 13, 2006, and for April 3, 2006, April 10, 2007 and April 11, 2007.

4. Attorney's fees.

In regard to the foregoing issues the claimant contends that she suffered a compensable injury arising out of and in the course of her employment with the respondent. On August 16, 2006, the claimant was in the process of spraying lacquer in the course and scope of her employment with Riverside Furniture, when she made a sudden turn to the right and felt immediate, sharp pain in her lower back and numbness in her right leg. The claimant sustained pain and injury to her back which caused her to cease work activity. The claimant provided notice of the occurrence to her employer within 48 hours. The claimant has been unable to work due to the injury since August 16, 2006, and is seeking temporary total disability from August 16, 2006, to a date to be determined. The claimant contends that she sustained an aggravation of her injury.

In regard to the foregoing issues Respondents No. 1 contend that they deny the claimant sustained a compensable injury to her

low back on August 16, 2006. Respondent states claimant gave no notice of her alleged injury as required by its policy. Claimant had a pre-existing back condition. The MRI performed after the alleged injury reflects the same back condition as the MRIs performed prior to the alleged injury.

In regard to the foregoing issues Respondent No. 2 contends that the Second Injury Fund is not involved in the issues to be tried, therefore no contentions will be submitted at this time.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No. 1. The claimant submitted documentary evidence marked Claimant's Exhibit No. 1 and medical records marked Claimant's Exhibit No. 2. The respondent submitted documents marked Respondent's Exhibit No. 1. All these exhibits were admitted without objection.

DISCUSSION

The claimant testified that she has worked for the respondent for the past eight years. The claimant testified that in 2001 she sustained a work related injury to her low back and for this injury she was treated at St. Edward Mercy Medical Center. The claimant testified that she received workers' compensation benefits as a result of this injury and was off work for approximately two and a half months. The claimant testified that her job for the respondent is in the spraying department. The claimant testified that in August 2006 she was working four ten hour days a week. The claimant testified that she worked Monday through Thursday.

The claimant testified that on August 16, 2006, she clocked into work at 5:45 in the morning. The claimant testified that around 7:30 she was spraying a piece of cabinetry and felt a sudden pain in her low back. The claimant remembered that the motion she was using at the time of her injury was an up and down movement to spray a piece of cabinet. The claimant stated that when she went down was when she immediately felt the pain and when she started back up the pain became more intense. The claimant testified that she saw a co-employee, Brenda, and that she told Brenda to go get Laura and for her to tell Etta that she had hurt her back. The claimant agreed that Laurie was Laura Winbush who is a lead person. The claimant testified that Laura Winbush came over and asked her if Etta had been by to speak with her and the claimant told her that Etta had not been by. The claimant testified that Etta Gibson is her supervisor. The claimant testified that Kevin who is a gentleman that works with Etta came by and told her to go to the office and speak with Etta. The claimant agreed that after she had a discussion with Laura she was directed to Etta's office. The claimant testified that Etta asked her what was going on and she told Etta that she hurt her back. The claimant testified that she told Etta that she was spraying a cabinet and when she bent over and went back up was how she hurt her back. The claimant testified that she tried to continue to work the rest of the day but after a while she just could not make it. The claimant testified that she left work at noon and had let Etta know that she was unable to work because of her injury.

The claimant testified that she did not work on August 17 and tried to go to the company doctor but he would not agree to see her. The claimant testified that after she was not authorized to be seen by the company doctor she went to the emergency room. The claimant testified that before she went to the emergency room she talked with Buddy Spradling who works for the respondent. The claimant testified that she told Mr. Spradling that Evan Breedlove was not there to give her permission to go to the doctor and at that time Mr. Spradling told her to go to the emergency room so that is where she went. The claimant testified that all of this took place on Thursday, August 17, 2006. The claimant testified that she does not work on Friday, Saturday, or Sunday but she did return to work on Monday, August 21. The claimant testified that she tried to work but just could not do the bending up and down and she reported this to Laura. The claimant testified that she told Laura that she had to go home and she also reported this to Etta. The claimant testified that she was unable to return to work on the 22nd because her back was hurting. The claimant testified that she remained off work until the week just before Thanksgiving due to her injury. The claimant agreed that her back injury was the only reason that prevented her from coming to work. The claimant testified that during this period of time she saw Dr. Edwards as well as other physicians for her back problems. The claimant testified that she underwent an MRI but could not remember the date. The claimant testified that her back injury in 2001 was much higher than the injury which she sustained in August 2006. The

claimant testified that in April on the 3rd, 10th, and 11th she also missed work due to her back problems resulting from her August 2006 injury. The claimant testified that she understood that she had been released to return to work but she was still having problems and her back hurts when she bends over to wipe something or bends over to spray. The claimant testified that currently she may have back pain for two or three days and then it will quit for a while and then it will flair back up at another time. The claimant testified that she was not having these problems prior to August 16, 2006.

On cross examination, the claimant testified that she recalls an incident in 1999 when her son hit her in the back with a large board. The claimant testified that she also recalls her work related injury in 2001 when she fractured her back at L1 and L2. The claimant agreed that she was given immediate medical treatment and underwent a couple of MRIs as a result of this injury. The claimant testified that she remembers that one of the MRIs done at this time also revealed some degenerative changes in her low back. The claimant testified that she was aware that Dr. Edwards had indicated that her previous MRIs and the MRI which she had done on September 6, 2006, are very similar. The claimant testified that she was having spasms in her back after her fall in December 2001 and she has been seen by the doctor subsequent to that for back spasm and back pain. The claimant agreed that the respondent's group health insurance has paid for most of her medical bills subsequent to August 16, 2006, and that she has received short term

disability benefits from the respondent after August 16, 2006. The claimant agreed that a CT scan of her abdomen on September 1, 2006, revealed multiple kidney stones in her right kidney. The claimant agreed that she was off work due to kidney stone surgery in late January and February 2007. The claimant agreed that after Dr. Edwards released her to return to work on November 13, 2006, she did not see any doctor for her back until after her kidney stone surgery and it was not until April 6, 2007, that she saw Dr. Alberty for her back. The claimant testified that her husband rides a motorcycle and she has ridden with him but that after her first motorcycle wreck which injured her knee she has been scared to ride very much with her husband.

On redirect examination, the claimant testified that although the pain which she experienced with kidney stones was as severe as the pain which she experienced with her back, the pain was in different locations. The claimant testified that after her kidney stone surgery she continued to have pain in her back. The claimant testified that on August 16 after she hurt her back and had a conversation with Etta Gibson she did not have the opportunity to talk to Evan Breedlove about her accident because it was her understanding that he was not at the plant. The claimant agreed that it was standard procedure that one would speak with Mr. Breedlove if they had an accident and then he would send them to the company doctor.

The claimant testified on recross examination that following her first back injury while working for the respondent in 2001 and

the injury which she had to her foot while working for the respondent she was always taken to medical services and then sent to the company doctor. The claimant agreed that after her 2001 back injury she wore a back brace at work. The claimant testified that she wore this back brace up until 2002, 2003, but once her back got better she quit wearing it. The claimant testified that after her August 16 event she has been wearing her back brace every day.

Evan Breedlove testified that he has been the director of human resources for the respondent for the past six years and one of his duties is to handle the workers' compensation claims. Mr. Breedlove testified that he was familiar with the claimant and was aware that she had drawn workers' compensation benefits from the respondent in the past. Mr. Breedlove indicated that on August 17, 2006, he first learned that the claimant was claiming that she hurt her back. Mr. Breedlove testified that his assistant, Linda Robertson, called him and informed him that the claimant had gone to the Cooper Clinic Occupational Health Center seeking treatment. Mr. Breedlove testified that he was not at the plant on August 16 or August 17, 2006. Mr. Breedlove testified that when the health clinic contacted his department for authorization for the claimant, authorization was denied because they were unaware of any injury. Mr. Breedlove testified that later he had a discussion with the claimant and she reported to him that she had twisted her back while working and that she had reported this incident to Laura Winbush, Cindy Scott, and Etta Gibson. Mr. Breedlove testified

that he told the claimant that he would investigate the claim and get back with her. Mr. Breedlove testified that he interviewed each of the three ladies which the claimant had indicated she had reported an injury to and each of them indicated that she had told them that she had hurt her back but did not indicate that it was work related. Mr. Breedlove testified that when he interviewed Laura Winbush she reported that she had overheard a conversation between Cindy Scott and the claimant about getting some Alieve and that Ms. Winbush had asked the claimant if there was a problem and the claimant told her that her back was bothering her but she would try and stick it out until noon. Mr. Breedlove testified that Ms. Winbush stated that the claimant never told her that she hurt her back at work and when the claimant was asked if she wanted to see the company nurse or go home, the claimant refused and went back to work. Mr. Breedlove agreed that Ms. Winbush told Etta Gibson that the claimant had informed her that her back was hurting. This witness agreed that the claimant clocked out about 11:18 August 16.

On cross examination, Mr. Breedlove testified that it is the respondent's policy that if an employee is injured they are to report their injury immediately to their lead person or supervisor and that their lead person or supervisor is to send the employee to medical services where they are seen by himself or his assistant Linda Robertson. Mr. Breedlove testified that his records indicate that the claimant was treated for work related injuries in the years 2000, 2001, January 2002, and May 2005. Mr. Breedlove testified that Linda Robertson has the authority to authorize an

employee to be seen by the company doctor and she was in the plant on August 16. Mr. Breedlove testified that it was his understanding that the claimant was told that because she had not reported an injury the respondent would not authorize her going to see the company doctor and that she would have to file under her group health insurance. Mr. Breedlove testified that when he talked with the claimant on August 22 she told him that she had reported a work related injury to Laura Winbush, Etta Gibson, and Cindy Scott.

Laura Winbush testified that she is a lead person for the respondent and has been in this position for approximately a year. Ms. Winbush testified that she works right along side the claimant and in close proximity with her doing a similar type work. Ms. Winbush testified that on August 16, 2006, she observed the claimant getting Alieve out of Cindy's bag so she went to Cindy and asked what was wrong with the claimant. This witness testified that Cindy told her that the claimant's back was hurting so at that time she then went to the claimant and asked her if she needed to go to the doctor but the claimant told her no that she would try to hold on until the lunch break. Ms. Winbush estimated that this all occurred prior to the morning's first break at 8:45. Ms. Winbush testified that she went and got Etta and Kevin. Ms. Winbush testified that she does not know if the claimant talked with Etta that day but she does recall that the claimant went home at her lunch break. Ms. Winbush testified that Etta and others came down to the line and talked to the claimant and the claimant told them

that she was going to wait until lunch break. Ms. Winbush testified that the claimant comes in walking slow to work but that she has always been able to do her job. Ms. Winbush testified that the claimant always did complain about her back. Ms. Winbush testified that she thought that the claimant returned to work on Monday but said she could not do the work as required because of her back. Ms. Winbush testified that she asked the claimant if she had a doctor's excuse and the claimant told her no but then the claimant left again at the lunch break and was out for the rest of that week. Ms. Winbush testified that when the claimant returned to work she thinks the claimant was on light duty.

On cross examination, Ms. Winbush testified that on August 16, 2006, and even to date the claimant has never told her that she hurt her back at work.

On redirect examination, Ms. Winbush testified that after the claimant told her that her back was hurting she went and reported this to Etta because it was her job. Ms. Winbush stated, "If someone is hurt on the job and the boss is not around and the lead is around, it's the job to get in touch with one of them." Ms. Winbush indicated that under the circumstances of what happened she felt it was appropriate to get in touch with Etta.

On recross examination, Ms. Winbush agreed that if an employee reports to her that they are sick and not feeling well and might need to go home early she would report this information to Etta as well. Ms. Winbush again testified that prior to August 16, 2006,

the claimant had told her that her back was hurting and that she would walk funny like her back was hurting.

Etta Gibson testified that she was the assistant supervisor of the finishing department for the respondent and was in that position in August 2006. Ms. Gibson testified that on August 16, 2006, Laura Winbush came to her and told her that the claimant might go home at lunch because her back was hurting. Ms. Gibson read from her deposition that Laura Winbush had come to her and asked her for some ibuprofen and told her that the claimant said her back was hurting and, if she did not get to feeling better she was going home at noon. Ms. Gibson testified that she was in her office, looked up and saw the claimant waive at her and said she was going home and she told the claimant it was ok. Ms. Gibson testified that on August 16, 2006, she does not remember the claimant personally telling her that her back was hurting. Ms. Gibson testified that at that time she had an assistant by the name of Kevin Barry but that she and Mr. Barry and the claimant did not have a meeting with the claimant where she told them that she hurt her back. Ms. Gibson testified that on the following Monday the claimant did tell her that she could not step up and down and spray the top of the units they were working on because her doctor had told her she could not. Ms. Gibson testified that she went immediately to the claimant's file and pulled the doctor's note which indicated that she was released to full duty. Ms. Gibson testified that the claimant had turned in the doctor's statements when she came in to pick up her time card. Ms. Gibson testified

that prior to August 16, 2006, the claimant had been able to perform her job in a satisfactory way.

On cross examination, Ms. Gibson testified that on August 16, 2006, to date the claimant has never told her that she hurt her back at work. Ms. Gibson testified that before August 16, 2006, the claimant had complained about her back. Ms. Gibson was asked if the claimant wore a back brace before August 16, 2006, and Ms. Gibson responded, "At times. Yes."

On redirect examination, Ms. Gibson was asked if before August 16, 2006, she could recall any time that the claimant had to leave work early because her back was hurting. Ms. Gibson responded, "Yes, but I can't give you a date without looking back at the record and all."

Robert Walsh testified that he and the claimant were married and that they frequently had lunch together at the respondent's business. Mr. Walsh testified that normally they do not ride to work together but in bad weather they do share a ride because he normally rides his Harley. Mr. Walsh testified that the claimant also has to be into work much earlier than he is. Mr. Walsh agreed that in mid August the claimant had to leave work because she injured her back at work. Mr. Walsh testified that his wife called him and told him that her back was hurting and at lunch he went to the respondent's business and she told him that she was going home that she could not stand it any longer that she had hurt her back. Mr. Walsh testified that on August 15 the claimant was not complaining about her back and that they saw each other on the

morning of the 16th and she was not complaining about her back. Mr. Walsh testified that when he got to the respondent's plant on August 16 his wife told him that her back was really wacked out that she had hurt it spraying. Mr. Walsh testified that he went with the claimant the next day to the clinic across from Rheem because that was where they thought the company doctor was. This witness testified that after he and the claimant filled out the paperwork they were informed that there was no one at the respondent's business to authorize the visit so they could not help them. Mr. Walsh testified that the claimant's mom and dad took her to the emergency room and he went to the respondent's business to talk to Etta. Mr. Walsh said that he asked Etta, "Etta you know the claimant hurt her back." Ms. Gibson responded, "Yeah I know I was told." Mr. Walsh testified that he again said that you know she hurt her back on the job and Ms. Gibson said, "Follow me." Mr. Walsh testified that Ms. Gibson then took him to the claimant's work station and explained her work duties and said there was no way she could hurt her back doing that job. Mr. Walsh testified that he then said to Etta that even though the claimant had hurt her back on the job she was not going to get any workers' comp and Ms. Gibson responded, "That's right." Mr. Walsh testified that his wife tried to return to work on Monday the 21st of August but it just did not work out and she had to come home at noon. This witness testified that several weeks later the claimant was diagnosed with kidney stones and ultimately underwent surgery for this problem. Mr. Walsh testified that the claimant returned to

work sometime in November and between August 21 and November 13 his wife was off work because of her back. This witness testified that he called in for his wife about four times because of her back since she has been back to work for the respondent.

On cross examination, Mr. Walsh testified that he works from 7:00 to 5:00 Monday through Friday and half a day on Saturdays. Mr. Walsh testified that he could not say for certain if he was up on August 16, 2006, before his wife left for work but that he was at least awake. Mr. Walsh testified that his wife leaves for work around 5:00 in the morning.

Cindy Scott testified that she works for the respondent in the filler line which is in the same area where the claimant works. Ms. Scott testified that on August 16, 2006, the claimant came over to her and asked for a couple of Advil and she told the claimant to go over and get them out of her bag. Ms. Scott remembered that this event happened shortly before their first break at 8:45. Ms. Scott testified that the claimant told her that her back was hurting but she does not remember the claimant telling her that she had an injury at work. Ms. Scott testified that Ms. Winbush came over and asked her what was going on and that she told her that the claimant had come and asked for a couple of Advil because her back was hurting. Ms. Scott testified that before August 16, 2006, the claimant would occasionally complain about her back hurting. Ms. Scott was asked if she had ever observed the claimant walking in an odd manner at work and Ms. Scott responded, "Yes, Ma'am." On cross

examination, Ms. Scott testified that she could not remember if the claimant told her that she hurt her back at work.

On redirect examination, Ms. Scott was asked if the claimant had told her on August 16 that she had hurt her back would she have told Laura Winbush that same thing and this witness responded, "Yes, Ma'am."

Brenda Stem testified that she is employed with the respondent and was working in August 2006. Ms. Stem testified that she worked in the claimant's area on August 16, 2006, until 7:15. Ms. Stem testified that the claimant told her that her back was hurting and that she went to get two Alieve from Cindy. Ms. Stem testified that she was moved at 7:15 to another area and did not have any further conversation with the claimant. Ms. Stem was asked if before August 16, 2006, had the claimant complained about her back and this witness responded, "Yes." Ms. Stem was then asked if she had ever seen the claimant walk kind of funny and this witness responded, "Sometimes."

On cross examination, Ms. Stem testified that the claimant would come in all the time saying that her back was hurting. When asked Ms. Stem clarified by saying that she would say her back was hurting at least once a week prior to the August 16 date. Ms. Stem was asked if before August 16 when she would say her back was hurting did she say that she was going to go get some Alieve or she had some Alieve and this witness responded, "No."

The medical records set forth that the claimant was seen at St. Edward Mercy Medical Center on August 17, 2006, reporting back

pain due to an injury at work the day before. The doctor's notes set forth that the claimant reports acute onset of right lower back pain radiating to her right hip due to a twisting motion, twisting at her trunk. After physical examination it was noted that the claimant had palpable muscle spasm at the level of L3 and L4. The claimant was diagnosed with sciatica, prescribed medications, to follow up with her family physician, and to return if she experienced any loss of strength or sensation in her legs. The claimant was seen by Dr. Gary Edwards on August 24, 2006, for her complaints of severe back pain since last Wednesday due to an injury at work while spraying. After examination, Dr. Edwards circled that the claimant had spasm for which medications, exercises, and off work were recommended. The claimant was seen again by Dr. Edwards on August 30, 2006, where she reports that she is doing better but still complains of muscles burning in her low back and notes that she is doing her exercises as recommended. On September 1, 2006, Dr. Edwards writes that the claimant's back is worse and that the claimant is having trouble getting around. The claimant underwent an MRI of her lumbar spine on September 5, 2006, where it is noted that she has degenerative disc changes at L4-5 and L5-S1 with tiny disc protrusion at L5-S1 and small right sided protrusion at L4-5. On September 6, 2006, Dr. Edwards writes that the claimant's MRI is similar to her December 2001 MRI. It is also noted that the claimant's CT scan revealed stones but that she also had spasms. On September 27, 2006, Dr. Edwards made an appointment for the claimant to be seen by Dr. Queeney on October 23, 2006.

when the claimant was seen by Dr. Edwards on October 11, 2006, the claimant reports that she is doing better and is still doing her walking and exercises. It is also noted that upon examination that the claimant is still experiencing back spasms.

The claimant began being seen by Dr. Joe Paul Alberty on April 6, 2007, on referral by Dr. Edwards for her back problems. Dr. Alberty writes that the claimant reports that her job is that of a sprayer for the respondent and that on August 16, 2006, she bent over and had acute pain in her lower lumbar area. Dr. Alberty writes that Dr. Edwards took her off work and gave her physical therapy for eight weeks as well as treated her with pain medications. Dr. Alberty writes that the claimant returned to work sometime around Thanksgiving although she has missed two or three days of work since that time. Dr. Alberty goes through the claimant's past medical history noting that the claimant reports that she does not want to lose her job and does take some medications for her symptoms. After examination, it is noted that the claimant has been wearing a lumbar support and Dr. Alberty recommended that she be placed on light duty and to continue her medications. The claimant continued to be seen by Dr. Alberty throughout the month of April 2007, once in May 2007, and lastly on June 1, 2007. Dr. Alberty notes that the claimant continues to be careful in her activities and that she wears her support belt daily. Dr. Alberty recommended that she continue to use heat for her symptom relief noting that there really is no change in her condition. Dr. Alberty writes to the claimant's attorney on June

8, 2007, that he feels that the claimant did have an injury to her lumbar spine as a result of her employment with the respondent. Dr. Alberty notes that the claimant's current status is that she does not have a neurological deficit noting that she has improved but continues to have symptoms. Dr. Alberty writes that he does not feel that she has any permanent physical impairment as a result of her on the job injury. In an addendum Dr. Alberty writes that he does not think that the claimant will require lumbar surgery as a result of this incident.

After a complete review of this entire record, I find that the claimant has proven by a preponderance of the evidence that she had a temporary aggravation to her low back on August 16, 2006, while working for the respondent. The claimant has consistently reported that she sustained an injury to her back on August 16, 2006, and even sought medical treatment through the company's physician on August 17, 2006, although denied authorization she was seen at the ER on August 17, 2006, for her complaints of back problems resulting from an injury the day before. It is unclear exactly what was said between the claimant and her supervisors on August 16, 2006, as to the reason for her having to leave work at her noon hour. It is quite clear, however, that by August 17, 2006, she was contending that she had an on the job injury for which she was seeking medical treatment. Upon examination, it is noted that the claimant had palpable muscle spasms at the L3, L4 levels. The claimant began to be seen by Dr. Gary Edwards and at each of his examinations muscle spasm was noted in her back. The respondents,

therefore, should pay for this claimant's medical treatment for her low back up through her return to work in November 2006. The medical treatment which the claimant has been receiving from Dr. Alberty will not be the responsibility of the respondents. Although the claimant continues to have complaints of pain in her low back, Dr. Alberty does not set forth any objective medical findings to justify additional medical treatment. On August 24, 2006, Dr. Edwards took the claimant off work as a result of her back problems resulting from her work for the respondent. The claimant continued to be off work as a result of her back problems up and to November 13, 2006. Therefore, the respondents should pay temporary total disability to this claimant from August 24, 2006, to November 13, 2006. The claimant has contended that she missed three days in April as a result of her back injury. However, there is no indication in the medical records that the claimant was taken off work by her doctor and the claimant has not even been able to testify as to what these days are. In accordance with Ark. Code Ann. §11-9-411 the respondents should be entitled to a credit for the payments which are made through the respondent's group health insurance as well as for any short term disability which this claimant has received during her time off work in 2006.

FINDINGS & CONCLUSIONS

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.
2. On August 16, 2006, the relationship of employee-employer-carrier existed between the parties.

3. The claimant is entitled to a weekly compensation rate of \$220.00 for temporary total disability and \$165.00 for permanent partial disability.

4. The claimant has proven by a preponderance of the evidence that she sustained an aggravation to her back on August 16, 2006, while working for the respondent. See discussion above.

5. The respondents should pay for the medical treatment for this claimant's compensable back injury from the date of injury to November 13, 2006. The respondents should be entitled to a credit for any medical treatment paid through their group health insurance policy in accordance with Ark. Code Ann. §11-9-411. See discussion above.

6. The claimant has proven by a preponderance of the evidence that she is entitled to temporary total disability from August 24, 2006, to November 13, 2006. In accordance with Ark. Code Ann. §11-9-411 the respondents should be entitled to a credit for any short term disability benefits which this claimant received during her time off work in 2006. See discussion above.

7. The respondents have controverted this claim in its entirety.

8. The claimant's attorney is entitled to the maximum statutory attorney's fee based on the benefits awarded herein.

ORDER

The claimant has proven by a preponderance of the evidence that she sustained a compensable back injury on August 16, 2006.

The respondents should pay for the medical treatment for this claimant's compensable back injury from August 16, 2006, to November 13, 2006. The respondents shall be entitled to a credit for any medical treatment received by this claimant through the group health policy.

The respondents should pay temporary total disability to this claimant from August 24, 2006, to November 13, 2006. The respondents shall be entitled to a credit for any short term disability benefits this claimant received while she was off work in 2006.

The respondents shall pay to the claimant's attorney the maximum statutory attorney's fee on the additional benefits awarded herein, with one half of said attorney's fee to be paid by the respondents in addition to such benefits and one half of said attorney's fee to be withheld by the respondents from such benefits.

All benefits herein awarded which have heretofore accrued are payable in a lump sum without discount.

This award shall bear the maximum legal rate of interest until paid.

IT IS SO ORDERED.

ELIZABETH DANIELSON
ADMINISTRATIVE LAW JUDGE