

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F212235

JOHN CHANDLER, EMPLOYEE	CLAIMANT
DRIVERS SELECT, INC., EMPLOYER	RESPONDENT
LIBERTY INSURANCE CORPORATION, CARRIER	RESPONDENT

OPINION FILED NOVEMBER 3, 2003

Upon review before the FULL COMMISSION, Little Rock, Pulaski County, Arkansas.

Claimant represented by HONORABLE JAY TOLLEY, Attorney at Law, Fayetteville, Arkansas.

Respondent represented by HONORABLE JAMES ARNOLD, II, Attorney at Law, Fort Smith, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the Administrative Law Judge filed July 9, 2003.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim;
2. In August 2002 and on October 18, 2002, the relationship of the employee-employer-carrier existed between the parties;
3. The claimant's average weekly wage is \$297.74;

4. The fight which the claimant was involved in on October 18, 2002, had its origin and was related to the claimant's work and working relationship with Mr. Nicholson;
5. The claimant has failed to prove by a preponderance of the evidence that his left shoulder problems are a results of the altercation which he was involved in on October 19, 2002.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

In affirming and adopting the decision of the Administrative Law Judge, we note that the Administrative Law Judge incorrectly stated that the claimant "experienced a pop in his left shoulder in August 2002 when working for another temp service." The record indicates that the claimant was working for Drivers Select in August 2002, but that he was working on another job site for this employer. Nevertheless, we find that the claimant has failed to prove by a preponderance of the evidence that his left shoulder problems are a result of the altercation in which he was involved in October of 2002. Claimant has not filed a claim for a compensable injury arising out of an incident

in August of 2002, and we make no findings regarding any such incident.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.