

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F200524

GUY L. HAWKINS,  
EMPLOYEE

CLAIMANT

NOWLEN LOGGING,  
EMPLOYER

RESPONDENT

AMERICAN INTERSTATE INSURANCE COMPANY,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED JULY 7, 2003

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

Claimant represented by HONORABLE KENNETH E. BUCKNER,  
Attorney at Law, Pine bluff, Arkansas.

Respondents represented by HONORABLE MICHAEL E. RYBURN,  
Attorney at Law, Little Rock, Arkansas.

Decision of the Administrative Law Judge: Affirmed and  
adopted.

OPINION AND ORDER

The claimant appeals from a decision of the  
Administrative Law Judge filed October 15, 2002. The  
Administrative Law Judge entered the following findings of  
fact and conclusions of law:

1. The Workers' Compensation Commission has jurisdiction of this claim in which the relationship of employee-employer-claimant (sic) existed among the parties on September 10, 2001, when the claimant sustained a compensable knee injury. Medical expenses, temporary total disability benefits and a 9% rating have been paid at an incorrect compensation rate of \$321.00/\$214.00.

2. The claimant's correct average weekly wage is \$600.00 based upon the contract of hire (5 days per week at \$120.00 per day) as the claimant made himself available for work even on days that the employer decided not to operate business.
3. The respondents are directed to make up the difference to the claimant between the correct compensation rate and past indemnity benefits paid for temporary total disability benefits and permanent partial disability benefits. These additional benefits have been controverted.
4. The claimant has failed to prove by a preponderance of the credible evidence that he sustained a compensable injury, caused by a specific incident, arising out of and in the course of his employment which produced physical bodily harm, supported by objective findings, requiring medical treatment or producing disability, pursuant to Ark. Code Ann. § 11-9-102.
5. This claim, for a corrected compensation rate, has been controverted and the claimant's counsel is entitled to the maximum attorney's fees to be paid in accordance with Ark. Code Ann. § 11-9-715, § 11-9-801, and WCC Rule 10.

Pursuant to the Full Commission decisions of Coleman v. Holiday Inn, (November 21, 1990) (D708577), and Chamness v. Superior Industries, (March 5, 1992) (E019760), the claimant's portion of the controverted attorney's fee is to be withheld from, and paid out of, indemnity benefits, and remitted by the respondent, directly to the claimant's attorney.

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.

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.

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OLAN W. REEVES, Chairman

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JOE E. YATES, Commissioner

Commissioner Turner dissents.