

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F006319

HOMER LASTER, EMPLOYEE	CLAIMANT
TEMPLE-INLAND FOREST PRODUCTS, EMPLOYER	RESPONDENT
ACE/USA, CARRIER	RESPONDENT

OPINION FILED NOVEMBER 3, 2003

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

Claimant represented by HONORABLE KEN OLSEN, Attorney at Law, Little Rock, Arkansas.

Respondent represented by HONORABLE ERIC NEWKIRK, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the Administrative Law Judge filed December 6, 2002.

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

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim;
2. The employment relationship existed between the parties at all relevant times, and the claimant earned sufficient wages to entitle him to a compensation rate of \$323.00 per week for temporary total disability and \$242.00 per week for permanent partial disability in the event his claim was found compensable.

3. The claimant has failed to prove, by a preponderance of the evidence, that he sustained an injury arising out of and during the course of his employment with Temple-Inland Forest Products.
4. The respondent has controverted this claim in its entirety.

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.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

_____ I must respectfully dissent from the opinion of the majority finding that claimant failed to prove by a preponderance of the evidence that he sustained an injury arising out of and in the course of his employment.

Claimant testified that in May 2000, he sustained an injury to his left shoulder while maneuvering wall board with Steven Veteto, the lead person on this shift. Claimant explained that Veteto dropped his end of the board and "it snatched me pretty good." Claimant stated that he experienced pain in his left shoulder.

I find that claimant presented credible testimony that he sustained a left shoulder injury arising out of and in the course of his employment. Accordingly, I would reverse the opinion of the Administrative Law Judge.

SHELBY W. TURNER, Commissioner