

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F209192

MARY JONES, EMPLOYEE	CLAIMANT
WAL-MART STORES, INC., EMPLOYER	RESPONDENT
CLAIMS MANAGEMENT, INC., INSURANCE CARRIER	RESPONDENT

OPINION FILED SEPTEMBER 30, 2003

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

Claimant represented by HONORABLE GREGORY GILES, Attorney at Law, Texarkana, Arkansas.

Respondent represented by HONORABLE DAVID WALL, Attorney at Law, Fayetteville, 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 8, 2003.

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

1. The stipulations agreed to by the parties at the prehearing telephone conference conducted on February 10, 2003, and contained in the Prehearing Order filed that same date, are hereby accepted as fact.
2. Claimant earned sufficient wages to be entitled to a compensation rate of \$153.00 per week.

3. Claimant has proven by a preponderance of the evidence that she sustained a compensable injury to her upper and lower back which is supported by objective medical findings of scraps, edema, and bulging discs at T6-7 and T9-10.
4. Claimant's healing period ended on August 8, 2002, when she refused to attend work hardening to improve her condition.
5. Claimant was within her healing period and totally incapacitated from earning wages from July 31, 2002, through August 8, 2002.
6. Claimant has proven by a preponderance of the evidence that she is entitled to one day of temporary total disability benefits pursuant to A.C.A. § 11-9-501(a).
7. Claimant's treating physicians have all recommended additional physical therapy.
8. Additional physical therapy is reasonably necessary in connection with claimant's compensable injury.

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

JOE E. YATES, Commissioner

Commissioner Turner concurs in part and dissents in part.

CONCURRING AND DISSENTING OPINION

For the following reasons, I respectfully concur in part and dissent in part from the majority opinion. Specifically, I concur in all respects with the decision of the majority except for the majority's affirming and adopting the Administrative Law Judge's finding that claimant's healing period ended on August 8, 2002. From this aspect of the majority opinion, I respectfully dissent.

I respectfully concur in part and dissent in part.

SHELBY W. TURNER, Commissioner