

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F206118

CATHERINE McCANN, EMPLOYEE	CLAIMANT
DAY & NITE CLEANERS, EMPLOYER	RESPONDENT
TRAVELERS INSURANCE COMPANY, CARRIER	RESPONDENT

OPINION FILED NOVEMBER 3, 2003

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

Claimant, CATHERINE McCANN, presented *pro se*.

Respondent represented by HONORABLE PHILLIP CUFFMAN, 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 July 30, 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 pre-hearing conference conducted on March 5, 2003, and contained in the pre-hearing order filed that same date, are hereby accepted as facts.
2. Claimant has failed to prove by a preponderance of the evidence that she is entitled to temporary total disability benefits as a result fo her compensable injury.

3. Claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury in the form of bilateral carpal tunnel syndrome while employed by the respondent.
4. Respondent has agreed to pay for any outstanding medical treatment relating to claimant's compensable right forearm injury including, but not limited to, Dr. Teitelbaum.

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 majority's holding that Claimant is not entitled to temporary total disability benefits for injuries to her right forearm and left wrist.

An employee who suffers a scheduled injury is entitled to temporary total disability benefits during the healing period or until the employee returns to work, whichever occurs first and regardless of whether he or she demonstrates an incapacity to earn wages. Farmers Cooperative v. Biles, 77 Ark. App. 1, 69 S.W.3d 899 (2002); Wheeler Construction Co. v. Armstrong, 73 Ark. App. 146, 41 S.W.3d 822 (2001). It is my opinion that Claimant did not have a meaningful "return to work" under Farmers Cooperative v. Biles, 77 Ark. App. 1, 69 S.W.3d 899 (2002), on February 8, 2002 when she attempted to return to work and was fired. Further, the record reflects that Claimant was still in her healing period until at least March 4, 2002.

For these reasons, I would find that Claimant is entitled to temporary total disability benefits for the period of February 8, 2002, to March 4, 2002 and, therefore, respectfully dissent.

SHELBY W. TURNER, Commissioner