

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F105904

LIDIA PONCE-RAMIREZ, EMPLOYEE	CLAIMANT
MISSION PLASTICS OF ARKANSAS, INC., EMPLOYER	RESPONDENT
LUMBERMEN'S MUTUAL CASUALTY COMPANY, INSURANCE CARRIER	RESPONDENT

OPINION FILED AUGUST 7, 2003

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

Claimant represented by HONORABLE RONALD MARC CHAUFY,
Attorney at Law, Texarkana, Texas.

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 September 20, 2002.

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 October 29, 2001, and contained in the Prehearing Order filed October 30, 2001, are hereby accepted as fact.
2. Claimant was an employee of respondent employer on May 7, 2001, and May 23, 2001.

3. Claimant was involved in two events at work; one on May 7, 2001, and one on May 23, 2001.

4. Respondents initially accepted the claims as compensable and paid benefits.

5. After paying \$9,637.18 in medical expenses, respondents received medical reports upon which respondents based the denial of these claims.

6. Respondents' group health care began payment of claimant's medical claims, once respondents denied compensability.

7. Claimant received short term disability benefits for thirteen weeks.

8. Claimant has proven by a preponderance of the evidence that she sustained a compensable injury to her thoracic and lumbar back which arose out of and in the course of her employment, resulted in physical harm to the body and is supported by objective medical findings of muscle spasms.

9. Claimant has proven by a preponderance of the evidence that she remained within her healing period and (sic) totally incapacitated from earning wages from May 24, 2001, through July 30, 2001, after she completed her second round of physical therapy.

10. Claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury to her neck which arose out of and in the course of her employment as a result of either the May 7, 2001, or May 23, 2001, specific incidents, which is supported by objective medical findings.

11. Respondents are entitled to an offset pursuant to A.C.A. §11-9-411 for the group health benefits and short term disability benefits received by the claimant.

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

I respectfully concur in part and dissent in part from the majority opinion, which in all respects affirms and adopts the decision of the Administrative Law Judge. Specifically, I concur in all respects with the majority

opinion except the affirmance of the Administrative Law Judge's determination that claimant failed to prove a compensable neck injury. From this finding, I respectfully dissent.

SHELBY W. TURNER, Commissioner