

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F214708

DARREN POLLEY,
EMPLOYEE

CLAIMANT

NABHOLZ CONSTRUCTION CO.,
EMPLOYER

RESPONDENT

ST. PAUL FIRE & MARINE INSURANCE,
INSURANCE CARRIER

RESPONDENT

OPINION FILED NOVEMBER 17, 2003

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

Claimant represented by HONORABLE JAY TOLLEY, Attorney at
Law, Fayetteville, Arkansas.

Respondents represented by HONORABLE JAMES A. ARNOLD II,
Attorney at Law, Fort Smith, Arkansas.

Decision of the Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

This case comes on for review by the Full
Commission on appeal by claimant from an opinion filed
herein by an Administrative Law Judge on May 7, 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 January 8, 2003, and contained in a pre-hearing order filed January 13, 2003, are hereby accepted as fact.

2. The parties' stipulation that claimant would be entitled to the maximum compensation rate is also hereby accepted as fact.
3. Claimant has failed to prove by a preponderance of the evidence that he suffered a compensable injury to his back while employed by the respondent.

In this case, we have reviewed the record de novo, weighing the evidence impartially and without giving the benefit of the doubt to either party. Ark. Code Ann. § 11-9-704(c) and Fowler v. McHenry, 22 Ark. App. 196, 737 S.W.2d 663 (1987). It is our opinion that the decision of the Administrative Law Judge is correct 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. Accordingly, we affirm and adopt the decision of the Administrative Law Judge filed May 7, 2003, and this claim is denied and dismissed.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.