

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F014295

PATTIE WILSON, EMPLOYEE	CLAIMANT
MAGNESS OIL COMPANY, EMPLOYER	RESPONDENT
ARKANSAS PROPERTY & CASUALTY GUARANTY FUND ON BEHALF OF RELIANCE NATIONAL INSURANCE CO. (IN LIQUIDATION), INSURANCE CARRIER	RESPONDENT

OPINION FILED JULY 8, 2003

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

Claimant represented by HONORABLE BEN RICE, Attorney at Law, Jacksonville, Arkansas.

Respondent represented by HONORABLE WILLIAM C. FRYE, 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 24, 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 stipulations agreed to by the parties and set forth above are hereby accepted as fact.

3. The claimant failed to prove by a preponderance of the evidence that her respiratory problems are causally related to her employment.

4. The claimant failed to prove by a preponderance of the evidence the elements necessary to establish the compensability of her respiratory problems.

5. The respondents 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

JOE E. YATES, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

_____I must respectfully dissent from the opinion of the majority finding that claimant failed to prove that her respiratory or pulmonary problems are causally related to her employment.

In my opinion, claimant presented credible testimony that on August 25, 2000, she experienced an acute episode of serious respiratory difficulties as a result of inhaling chemical agents while cleaning a particularly messy restroom.

Further, I place more weight on the opinions expressed by Dr. Sanchez-Montserrat, claimant's treating pulmonologist, than those of Dr. John, the pulmonologist hired by respondent. Dr. Sanchez-Montserrat adequately explained the basis upon which he opined that the work-related exposure or inhalation to chemical cleaning agents on August 25, 2000 aggravated claimant's preexisting condition and precipitated her subsequent disability and need for treatment. His pulmonary testing was carried out in December 2000, at a time when claimant was more symptomatic. Even then, claimant's pulmonary testing was normal in some respects. Dr. Sanchez-Montserrat added that the overall clinical picture must be considered in assessing the nature and extent of pulmonary difficulties. This

overall picture was obtained through the extended contact he had with claimant throughout the course of treatment.

Claimant has met her burden of the proof and the opinion of the Administrative Law Judge should be reversed.

SHELBY W. TURNER, Commissioner