

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F209153, F302825, F302826

JENNY AVERY, EMPLOYEE	CLAIMANT
FRANKLIN ELECTRIC COMPANY, EMPLOYER	RESPONDENT
HELMSMAN MANAGEMENT, INSURANCE CARRIER	RESPONDENT

OPINION FILED JUNE 16, 2004

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

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

Respondent represented by HONORABLE JAMES ARNOLD II, 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 October 30, 2003.

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

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On all relevant dates, including May 1, 2002, December 10, 2002, and December 17, 2002, the relationship of employee-self insured employer-third party administrator existed between the parties.

3. On all relevant dates, the claimant earned wages sufficient to entitle her to weekly compensation benefits of \$349.00 for total disability and \$262.00 for permanent partial disability, should such benefits have been appropriate.
4. The claimant has failed to prove the occurrence of a "compensable injury" to her neck or cervical spine on May 1, 2002, or any other date. Specifically, she has failed to prove the occurrence of a physical injury to her neck or cervical spine that was caused by a specific incident on May 1, 2002 (or any other date) and has further failed to prove by the greater weight of the credible evidence the occurrence of a physical injury to her neck or cervical spine that was caused by "rapid repetitive motion" of this portion of her anatomy that was required by her employment.
5. The claimant has failed to prove by the greater weight of the credible evidence the occurrence of a "compensable injury" to her right shoulder on December 10, 2002 or December 17, 2002. Specifically, she has failed to prove the occurrence of a physical injury to her right shoulder that was caused by a specific incident on either December 10, 2002 or December 17, 2002.
6. The respondents have denied the occurrence of any compensable injury to the claimant's neck or cervical spine and any compensable injury to her right shoulder, as the result of a specific incident on December 10, 2002, or December 17, 2002.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the

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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.