

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F111495

CARL GAGE, EMPLOYEE	CLAIMANT
POWELL & POWELL MILLING, INC., EMPLOYER	RESPONDENT
TIG PREMIER INSURANCE CO., CARRIER	RESPONDENT

OPINION FILED SEPTEMBER 20, 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 CAROL WORLEY, 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 December 4, 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. Prior opinions are *res judicata* and the law of this case.

3. Medical expenses have been paid to June 23, 2003.

4. The claimant has failed to prove by a preponderance of the evidence that he is entitled to additional medical treatment subsequent to June 23, 2003.

5. The claimant has failed to prove his entitlement to additional temporary total disability from the date of his termination in March 2003 to a date to be determined.

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 dissent from the majority opinion denying additional medical treatment and temporary total disability benefits to Claimant.

It is undisputed that Claimant was still receiving medical treatment related to his compensable injury in March, 2003, when he was treated by Dr. Valley, who prescribed pain medication to Claimant, and that Respondents paid for that treatment. Additionally, the evidence in the record indicates that Claimant could not drive while taking prescribed medication and that Respondents' representatives were aware of Claimant's restrictions. In fact, Respondents' witness testified that on or about March 14, 2003, he talked to Dr. Valley regarding Claimant's condition and was aware

that Claimant could not drive while taking the prescribed medication.

For these reasons, I find that Claimant was in his healing period in March, 2003 and that there is insufficient evidence that Claimant was able to earn wages. I, therefore, find that Claimant is entitled to TTD benefits and additional medical treatment. Accordingly, I respectfully dissent.

SHELBY W. TURNER, Commissioner