

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F213313

MAX McCANN,
EMPLOYEE

CLAIMANT

LAZENBY CONSTRUCTION,
EMPLOYER

RESPONDENT NO. 1

ROEMER CONSTRUCTION,
INSURANCE CARRIER

RESPONDENT NO. 2

OPINION FILED MARCH 12, 2004

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

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

Respondent No. 1 represented by HONORABLE TOD BASSETT,
Attorney at Law, Fayetteville, Arkansas.

Respondent No. 2 represented by HONORABLE CONSTANCE CLARK,
Attorney at Law, Fayetteville, Arkansas.

Decision of the Administrative Law Judge: Affirmed and
adopted.

OPINION AND ORDER

The claimant appeals from a decision of the
Administrative Law Judge filed June 19, 2003. The
Administrative Law Judge entered the following findings of
fact and conclusions of law:

1. The parties stipulated that the claimant had
an accident which injured his right lower
extremity on June 12, 2001.

2. The claimant has failed to prove by a preponderance of the evidence that he was an employee of Respondent No. 2 or Respondent No. 1. A preponderance of the evidence does indicate that this claimant was a sole proprietor or independent contractor.

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.