

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F304747

ZACHARY OWEN, EMPLOYEE	CLAIMANT
TODD CHRISTEN CONSTRUCTION CO., EMPLOYER	RESPONDENT NO. 1
LIBERTY MUTUAL INSURANCE CO., CARRIER	RESPONDENT NO. 1
E Q CUSTOM BUILDERS, AN UNINSURED EMPLOYER	RESPONDENT NO. 2
JOHN GIBSON, AN UNINSURED EMPLOYER	RESPONDENT NO. 3

OPINION FILED OCTOBER 19, 2004

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

Claimant represented by HONORABLE PHILIP M. WILSON, Attorney at Law, Little Rock, Arkansas.

Respondent No. 1 represented by HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by HONORABLE EMILY PAUL, Attorney at Law, North Little Rock, Arkansas.

Respondent No. 3 is not represented by counsel and failed to appear.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondent No. 2 appeals from a decision of the Administrative Law Judge filed March 9, 2004.

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 April 24, 2003, the claimant was not an employee of respondents #1.
3. On April 24, 2003, the relationship of employee-employer existed between the claimant and respondent #3, an uninsured subcontractor of respondent #2, the prime contractor. Accordingly, claimant is a statutory employee of respondent #2.
4. On April 24, 2003, the claimant earned an average weekly wage of \$600.00, which generates weekly compensation benefit rates of \$400.00/\$300.00 for temporary total disability/permanent partial disability benefits, respectively.
5. On April 24, 2003, the claimant sustained an injury arising out of and in the course of his employment, which rendered him temporary totally disabled for the period April 25, 2003, through the end of his healing period, or until such time (sic) he returned (sic) gainful employment, September 24, 2003, whichever occurred first.
6. Respondent #2 shall pay all reasonable hospital and medical expenses arising out of the injury of April 24, 2003.
7. Respondent #2 is entitled to reimbursement from respondent #3 for expenses and sums paid to and on behalf

of the claimant as a result of the April 24, 2003, compensable injury.

8. Respondent #2 has 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. All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002).

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Since the claimant's injury occurred after July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as amended by Act 1281 of 2001. Compare Ark. Code Ann. § 11-9-715 (Repl. 1996) with Ark. Code Ann. § 11-9-715 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

Commissioner McKinney dissents.