

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NOS. F008453, F009402, F200001

GARY SCOTT, EMPLOYEE	CLAIMANT
WILLIS SHAW EXPRESS, INC., EMPLOYER	RESPONDENT
CRAWFORD & COMPANY, CARRIER	RESPONDENT

OPINION FILED APRIL 7, 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 CONSTANCE CLARK, Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the Administrative Law Judge filed May 14, 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 April 17, 2000 and August 16, 2000, the relationship of employee-self-insured employer-third party administrator existed between the parties.

3. On these dates, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$394.00 for total disability and \$296.00 for permanent partial disability .

4. On April 17, 2000 and August 16, 2000, the claimant sustained compensable injuries to his neck or cervical spine, in the form of temporary aggravations of a pre-existing and ongoing degenerative and arthritic condition.

5. The respondent has paid all expenses for appropriate reasonably necessary medical services and all appropriate temporary total disability benefits for the compensable injuries of April 17, 2000 and August 16, 2000.

6. The claimant has failed to prove by the greater weight of the credible evidence that any medical services he required for symptoms involving his neck or cervical spine an [sic] and after December 26, 2001, constitute reasonably necessary medical services for his compensable injuries of April 17, 2000 and August 16, 2000. Specifically, he has failed to prove that these medical services were in any [sic] necessitated by or connected with these compensable injuries.

7. The claimant has failed to prove that any temporary total disability which he may have experienced on and after December 26, 2001, was in any way caused by or connected to his compensable injuries of April 17, 2000 and August 16, 2000. Specifically, he has failed to prove that he continued within his healing period from the effects of these injuries on and after December 26, 2001, or that these injuries, in any way, prevented him from performing all forms of regular gainful

employment on and after December 26, 2001.

8. The claimant has failed to prove that he sustained a "compensable injury" to either his neck, his shoulders, or his mid back on December 26, 2001. Specifically, the greater weight of the credible evidence presented establishes that this alleged compensable injury (if in fact it did occur) occurred at a time after the claimant's employment with this respondent had terminated and at a time when the claimant was not performing any employment services for this respondent. Thus, no benefits can be awarded under the Act for this alleged injury.

9. The respondent has denied the occurrence of any compensable injury to the claimant's neck, shoulders, or mid back on December 26, 2001, and have controverted his entitlement to any benefits attributable to such an injury. The respondent has further controverted the claimant's entitlement to any additional medical services or any additional temporary total disability benefits as a result of his admittedly compensable neck or cervical injuries of April 17, 2000 and August 16, 2000.

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

Scott - F008453, F009402, 4
F200001

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.