

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F313258

MIKE SCROGGINS,
EMPLOYEE

CLAIMANT

COPACABANA CLUB,
EMPLOYER

RESPONDENT

LIBERTY MUTUAL INSURANCE COMPANY,
INSURANCE CARRIER

RESPONDENT

OPINION FILED NOVEMBER 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.

Respondents represented by HONORABLE JAMES ARNOLD II,
Attorney at Law, Fort Smith, 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 8, 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 November 8, 2003, the relationship of
employee-employer-carrier existed between the
parties.
3. On November 8, 2003, the claimant earned
wages sufficient to entitle him to weekly
compensation benefits of \$187.00 for total
disability and \$154.00 for permanent partial

disability, should this claim have been compensable.

4. The claimant has failed to prove by the greater weight of the credible evidence that he sustained a "compensable injury" to his lower back, on November 8, 2003.
5. The respondents have denied the occurrence of any compensable injury to the claimant's lower back on November 8, 2003, and have 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.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

_____ I dissent from the majority opinion finding that Claimant's back injury is not compensable. I find that Claimant credibly testified that he fell while working for Respondent on November 8, 2002, he experienced an increase in back pain following the fall, and he incurred pain and numbness in his left leg after the work injury. Claimant's physician, Dr. Dan Bell, testified that he has known Claimant for many years and that he believes Claimant's account of his injury in the workplace. Dr. Bell also testified that he has treated Claimant since 1988 and had no record of Claimant complaining of back pain until after the work related accident in November, 2002. Dr. Bell stated that Claimant reported that his back had been bothering him for several weeks, but he did not experience pain down his leg until the fall.

For these reasons, I dissent from the majority opinion.

SHELBY W. TURNER, Commissioner