

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F214299

GLEND A BROTHERTON,
EMPLOYEE

CLAIMANT

WHITE RIVER AREA AGENCY ON AGING,
EMPLOYER

RESPONDENT

AGING SERVICES FUND,
INSURANCE CARRIER

RESPONDENT

OPINION FILED FEBRUARY 18, 2005

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

Claimant represented by HONORABLE RICK SPENCER, Attorney at
Law, Mountain Home, Arkansas.

Respondents represented by HONORABLE BETTY DEMORY, Attorney
at Law, Little Rock, 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 10, 2004. The
Administrative Law Judge entered the following findings of
fact and conclusions of law:

1. The employee-employer-carrier relationship
existed at all relevant times.
2. The claimant's average weekly wage was
\$266.00 per week.
3. This claim has been controverted in its
entirety.

4. Glenda Brotherton sustained a neck injury while working with resident, Maxie Raines, in the home of Mary Foster at approximately 9:00 a.m. on July 16, 2002.
5. The neck injury was caused by a specific incident, was established by medical evidence supported by objective findings, required medical treatment and caused disability.
6. At the time of the injury, Glenda Brotherton was assisting Maxie Raines with toileting.
7. From approximately 8:00 a.m. until approximately 10:00 a.m., Ms. Raines and Ms. Foster were generally engaged in bathing residents, a function performed as a work duty for White River Rural Agency on Aging.
8. However, the precise toileting duties which Ms. Brotherton was performing with Ms. Raines when she became injured at approximately 9:00 a.m. occurred throughout the course of the day, and therefore, could be performed either as employment duties for White River Area Agency on Aging or as employment duties in her alternative employment agreement with Ms. Foster.
9. Glenda Brotherton's injury at approximately 9 a.m. was outside her scheduled period of employment for White River Area Agency on Aging with Ms. Maxie Raines, which was from 10:00 a.m. to 1:00 p.m.
10. Glenda Brotherton has failed to establish by a preponderance of the evidence that her injury occurred while performing an employment service for White River Area Agency on Aging.

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.