

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F305004

VICTORIA G. HOLLAND,  
EMPLOYEE

CLAIMANT

BAXTER HEALTHCARE, INC.,  
EMPLOYER

RESPONDENT

AMERICAN MANUFACTURING INSURANCE CO.,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED SEPTEMBER 1, 2005

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

Claimant represented by the HONORABLE FREDERICK R.  
SPENCER, Attorney at Law, Mountain Home, Arkansas.

Respondents represented by the HONORABLE TOM HARPER,  
JR., Attorney at Law, Fort Smith, Arkansas.

Decision of Administrative Law Judge: Affirmed and  
Adopted.

## OPINION AND ORDER

Claimant appeals an opinion and order of the  
Administrative Law Judge filed January 27, 2005. In  
said order, the Administrative Law Judge made the  
following findings of fact and conclusions of law:

1. The stipulations agreed upon by the parties are reasonable and are approved.
2. The employee-employer-carrier relationship existed on November 11, 1981; on December 4, 2002; and at all other relevant times.
3. Claimant suffered a compensable injury on November 11, 1981.

4. After Claimant's November 11, 1981 compensable injury, Dr. Charles Ledbetter assigned her a 20% impairment rating; Dr. William Blankenship then assigned Claimant a 5% impairment rating; Respondents accepted and paid benefits based upon the permanent impairment rating of 5% to the body; these benefits were paid in full in 1983.

5. As of November 11, 1981, Claimant's compensation rate was \$139.20.

6. As of December 4, 2002, Claimant's temporary total disability rate was \$366.00, and her permanent partial disability rate was \$275.00.

7. Respondents did not list Claimant's co-worker, whose last name is "Collins," in their response to Claimant's discovery requesting the names of all persons who would have any knowledge of the facts.

8. Claimant did not sustain her burden of proving by a preponderance of the evidence that she suffered a compensable specific incident injury on December 4, 2002. Claimant's medical condition and treatment were substantially the same before and after December 4, 2002. Her medical records following this date do not report an injury on that date; her unfiled Form N completed on December 9, 2002, makes reference to her "old injury" but does not detail an injury on December 4, 2002. Even if Claimant established that an incident occurred on December 4, 2002, there are no new objective findings after that date that establish her compensable injury.

9. Claimant did not sustain her burden of proving by a preponderance of the evidence that she suffered a compensable gradual onset injury in 2002. The testimony does not establish that Claimant's tasks in the blending department and on the film line were sufficiently repetitive, or that her

repetitive motions were rapid. Her tasks in the blending department are varied. Her tasks in the blending department are varied. Her tasks on the film line also appear to be varied, and the record does not establish that they were performed rapidly.

10. Claimant's request for additional compensation related to her November 11, 1981 compensable injury is barred by the statute of limitations, because no disability benefits were paid after 1983, there is a twelve-year gap in the provision of medical services from 1982 to 1994, and claimant did not testify to the payment of any compensation or furnishing of medical services otherwise.

11. Because the statute of limitations bars Claimant's claim for additional benefits related to her November 11, 1981 compensable injury, it is not necessary to discuss her entitlement to those benefits.

12. Because Claimant failed to prove a compensable injury in 2002, it is not necessary to discuss her request for medical benefits, temporary total disability benefits, or an attorney's fee.

The claimant alleges that he sustained a compensable injury that is governed by the Arkansas Workers' Compensation Act, A.C.A. § 11-9-101 et seq. The claimant's alleged injury is, indeed, an injury that is covered by the Act; however, the claimant has failed to establish the elements necessary to prove a compensable injury by a preponderance of the evidence.

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.

Therefore we affirm and adopt the January 27, 2005 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.

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OLAN W. REEVES, Chairman

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KAREN H. McKINNEY, Commissioner

Commissioner Turner dissents.