

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NOS. E403713 & E501760

DONNIE LEMMONS, EMPLOYEE	CLAIMANT
ARK. GLASS CONTAINER CORP., A SELF-INSURED EMPLOYER	RESPONDENT NO. 1
SECOND INJURY FUND	RESPONDENT NO. 2
DEATH & PERMANENT DISABILITY TRUST FUND	RESPONDENT NO. 3

OPINION FILED OCTOBER 31, 2005

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

Claimant represented by HONORABLE ANTHONY BARTELS, Attorney at Law, Jonesboro, Arkansas.

Respondent No. 1 represented by HONORABLE DAVID LANDIS, Attorney at Law, Jonesboro, Arkansas.

Respondent No. 2 represented by HONORABLE TERRY PENCE, Attorney at Law, Little Rock, Arkansas.

Respondent No. 3 represented by HONORABLE JUDY RUDD, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from an amended decision of the Administrative Law Judge filed February 3, 2005.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of these claims.
2. At all times pertinent to these claims, the employment relationship existed between the claimant and respondent #1.
3. On February 19, 1994, the claimant earned an average weekly wage of \$205.00, which generates a weekly compensation benefit rate of \$137.00, for total/permanent partial disability.
4. On February 19, 1994, claimant sustained a compensable injury to his left lower extremity, which resulted in a permanent physical impairment in the amount of 20 % to the extremity.
5. Claimant reached the end of his healing period on October 10, 1996.
6. The claimant has failed to sustain his burden of proof by a preponderance of the evidence that his diagnosed carpal tunnel syndrome is a compensable consequence of the compensable February 19, 1994, injury.
7. The claimant has a permanent partial disability in the amount of 20% to the left lower extremity as a result of the February 19, 1994, compensable injury.

8. Respondent #2 has no liability in this claim, in that the claimant has failed to sustain his burden of proof by a preponderance of the evidence that he has been rendered permanently and totally disabled as a result of the compensable injury of February 19, 1994, suffered in the employment of Respondent #1.

9. While the claimant waived vocational rehabilitation, the evidence preponderates that claimant is capable of gainful employment at wages equal to or greater than those he earned at the time of his February 19, 1994, compensable injury, such that vocational rehabilitation is not warranted.

10. Respondent #2 and Respondent #3 should be dismissed as parties to the present claim, in that neither has liability in this matter.

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

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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.