

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F103456

CALVIN WHITE,
EMPLOYEE

CLAIMANT

ARKANSAS ELECTRIC CO-OP, INC.,
EMPLOYER

RESPONDENT

CROCKETT ADJUSTMENT,
INSURANCE CARRIER/TPA

RESPONDENT

ORDER FILED MARCH 29, 2005

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

Claimant represented by the HONORABLE JEFFREY MALM, Attorney
at Law, Harrison, Arkansas.

Respondents represented by the HONORABLE BETTY J. DEMORY,
Attorney at Law, Little Rock, Arkansas.

ORDER

The respondents move the Commission in the above-styled
matter to clarify our opinion. The Full Commission grants
the respondents' motion.

I. HISTORY

The claimant contended that he sustained an accidental
injury on or about February 26, 2001. In a subsequent pre-
hearing order, an administrative law judge determined that
the issue to be litigated was whether the claimant sustained

a compensable injury. A hearing was held on November 7, 2001. The parties agreed at hearing that the issue for litigation was limited to the following: "Whether the claimant sustained an injury that is compensable under the Arkansas Workers' Compensation Law."

The administrative law judge filed an opinion on February 5, 2002. The administrative law judge found that the claimant failed to prove he sustained a compensable injury. The claimant appealed to the Full Commission. The claimant contended on appeal that the administrative law judge erred in denying compensability "and in not awarding temporary total disability benefits, medical expenses, statutory penalties and attorney's fees." The Full Commission affirmed and adopted the administrative law judge's February 5, 2002 decision. The claimant appealed to the Arkansas Court of Appeals. In an opinion delivered June 25, 2003, the Court of Appeals reversed and remanded. The Full Commission subsequently remanded the case to the administrative law judge "for additional findings consistent with the June 25, 2003, opinion of the Arkansas Court of Appeals."

The administrative law judge filed another opinion on February 23, 2004, stating, "After weighing all of the evidence of the record, including those facts deemed by the court that constitute evidence supporting the claimant's claim, I am constrained to find that the greater weight of the evidence supports a conclusion that the claimant did, in fact, sustain an injury arising out of and in the course of his employment. Accordingly, I find that the claimant proved by a preponderance of the evidence the elements necessary to establish a compensable injury under Arkansas Workers' Compensation Law."

The respondents appealed to the Full Commission. In his response, the claimant did not contend that the administrative law judge should have awarded temporary total disability compensation and reasonably necessary medical treatment. The claimant instead stated, among other things, that the administrative law judge's opinion was "correct legally and factually."

In an opinion filed January 18, 2005, the Full Commission affirmed and adopted the administrative law judge's February 23, 2004 opinion. Neither party appealed

the Full Commission's January 18, 2005 opinion. The Full Commission's opinion therefore became final on or about February 18, 2005. Ark. Code Ann. §11-9-711(a)(1).

II. MOTION

The respondents have filed a Motion For Clarification Of Opinion. The respondents essentially state that they were never "provided with any direction regarding the benefits awarded to the claimant for his compensable work-related injury." The claimant replies that he "sustained a compensable injury four (4) years ago, and has received no Workers' Compensation benefits of any kind. The respondents need no guidance from this Commission in handling a compensable Workers' Compensation claim as the statutory benefits are well defined." The claimant states that Dr. McCarthy recommended back surgery in 2001, and "Because the self-insured Respondent refused to pay benefits, Mr. Calvin White has been unable to receive the required medical treatment and has received not a penny of benefits in this case." The claimant contends that he is entitled to penalties, interest, and attorney's fees.

The Full Commission grants the respondents' motion for clarification. In an opinion filed February 23, 2004, an administrative law judge found that the claimant proved he sustained a compensable injury. The administrative law judge did not award temporary disability, medical treatment, or any other benefits. Moreover, the parties did not litigate the claimant's entitlement to temporary disability and medical treatment. The respondents appealed to the Full Commission the administrative law judge's finding of compensability, but the claimant did not cross-appeal and argue that he should have been awarded benefits. We reiterate the claimant's contention that the February 23, 2004 administrative law judge's opinion was "correct legally and factually." The Full Commission affirmed and adopted the administrative law judge's opinion filed February 23, 2004, and neither party appealed our decision to affirm and adopt.

Pursuant to the remand of the Arkansas Court of Appeals, the subsequent findings of the Workers' Compensation Commission, and the pleadings of the parties, the Full Commission grants the respondents' motion for

clarification. To clarify, the Full Commission notes that the claimant proved he sustained a compensable injury on or about February 26, 2001. The parties have not litigated the claimant's entitlement to temporary total disability compensation or reasonably necessary medical treatment, and no such benefits have been awarded.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner