

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F303966

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| MARILYN JORGENSEN, EMPLOYEE | CLAIMANT |
| BAXTER CO. REGIONAL HOSPITAL, A SELF INSURED EMPLOYER | RESPONDENT |

OPINION FILED APRIL 3, 2006

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

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

Respondent represented by HONORABLE WALTER A. MURRAY,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the
Administrative Law Judge filed August 29, 2005.

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

1. The parties stipulate that the employer-employee carrier relationship existed at all times pertinent hereto including July 7, 2001.

2. If this claim is found compensable, the claimant's compensation rate for temporary total disability is \$137.00 per week.

3. The claimant has failed to establish that the Arkansas Workers' Compensation Act is unconstitutional.

4. The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable back injury. Specifically, the claimant has failed to establish by a preponderance of the evidence that any of her back problems are causally related to any incident at work, and the claimant has failed to establish the existence of her alleged compensable back injury with medical evidence supported by objective findings.

5. The claimant has failed to establish the existence of an organic brain injury with medical evidence supported by objective findings. Specifically, because Dr. Vann Smith's neuropsychological testing results came within the voluntary control of the patient, his neuropsychological test results are not objective within the meaning of Ark. Code Ann. § 11-9-102(16)(A)(i).

6. Because the claimant has failed to establish the existence of a compensable injury, the respondents are not liable for any temporary disability

compensation or medical benefits, and neither party is liable for an attorney's fee to the claimant's attorney.

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.

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.