

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F412890

DARRYL MELVIN,  
EMPLOYEE

CLAIMANT

ACTION WELDING & FABRICATION,  
EMPLOYER

RESPONDENT

FIRSTCOMP INSURANCE CO.,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED SEPTEMBER 7, 2006

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

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

Respondents represented by the HONORABLE WILLIAM C.  
FRYE, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and  
Adopted.

## OPINION AND ORDER

Claimant appeals an opinion and order of the  
Administrative Law Judge filed May 22, 2006. In said  
order, the Administrative Law Judge made the following  
findings of fact and conclusions of law:

1. The Employer-Employee-Carrier relationship existed on July 15, 2003 and at all pertinent times hereto.
2. The claimant was earning an average weekly wage of \$420.00, which entitled him to benefit rates of \$280.00/\$210.00.
3. This claim has been controverted in its entirety.

4. The claimant has failed to establish by a preponderance of a credible evidence that the exertion of his work on July 14, 2005 [sic] and/or July 15, 2005 [sic] was extraordinary and unusual in comparison to his usual work in the course of his regular employment.

5. The claimant has also failed to establish that his work on July 14, 2003 and/or on July 15, 2003 is the major cause of his heart attack at issue.

6. The claimant has therefore failed to establish that he sustained a compensable heart or cardiovascular injury.

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.

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.

Therefore we affirm and adopt the May 22, 2006 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 concurs in part and dissents in part.

CONCURRING AND DISSENTING OPINION

I concur with the portion of the Majority's opinion denying the claimant's motion to recuse and rejecting the Claimant's constitutional challenges. However, I must respectfully dissent without opinion as to the Majority's finding that the claimant did not sustain a compensable injury on the date in question.

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SHELBY W. TURNER, Commissioner