

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F512453

TERRY CASSADY	CLAIMANT
WILLIS SHAW EXPRESS COMCAR INDUSTRIES	RESPONDENT
BIRMINGHAM FIRE INSURANCE COMPANY, CARRIER	RESPONDENT
GALLAGHER BASSETT SERVICES, TPA	RESPONDENT

**OPINION FILED JANUARY 2, 2007**

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

Claimant represented by HONORABLE CONRAD ODOM, Attorney at Law, Fayetteville, Arkansas.

Respondent represented by HONORABLE DAVID C. JONES, 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 30, 2006.

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

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. On September 1, 2005, the relationship of employee-employer carrier-third party administrator existed between the parties.

3. On September 1, 2005, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$466.00 for total disability and \$350.00 for permanent partial disability, should such benefits have been appropriate.

4. The claimant has failed to prove by the greater weight of the credible evidence that he sustained a "compensable injury" to either his neck or back on September 1, 2005. Specifically, he has failed to establish by medical evidence, which is supported by "objective findings," the actual existence of any physical injury or damage to his back, as required by Ark. Code Ann. §11-9-102(4) (D). The claimant has also failed to prove by the greater weight of the credible evidence presented that, on September 1, 2005 or any other date, he sustained a physical injury or damage to his neck or cervical spine that "arose out of" his employment with the respondent, as required by either Ark. Code Ann. §11-9-102(4) (A) (i) and §11-9-102(4) (A) (ii) (b).

5. The respondents have denied the occurrence of any compensable injuries to the claimant's neck or back and have controverted this claim in its entirety.

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.

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IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.