

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F408499

COY CLARK, EMPLOYEE	CLAIMANT
L & W TRUCKING, EMPLOYER	RESPONDENT
UNINSURED, CARRIER	RESPONDENT

OPINION FILED DECEMBER 14, 2007

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

Claimant represented by HONORABLE CHARLES R. PADGHAM, Attorney at Law, Hot Springs, 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

Claimant appeals from a decision of the Administrative Law Judge filed March 9, 2007.

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

1. The Arkansas Workers' Compensation Commission has jurisdiction to determine the facts which establish the applicability or non-applicability of the Arkansas Workers' Compensation Law to the injury and accident at issue in this claim.

2. The claimant has failed to establish by a preponderance of the evidence that the respondent employed the requisite number of employees to be covered by the Arkansas Workers' Compensation Law under Arkansas Code Annotated § 11-9-102(11) (A), or that the respondent was a contractor or subcontractor subject to the provisions of Arkansas Code Annotated §11-9-102(C) or (D).
3. Pursuant to Commission Rule 099.20, because I find that the uninsured respondent in this case is not subject to the Arkansas Workers' Compensation Law with respect to the claim filed herein, the respondent is not subject to the provisions of Commission Rule 099.20 regarding payment of a court reporter's bill.
4. Because the claimant has failed to establish that the Arkansas Workers' Compensation Law applies to this claim, even if the claimant is presumed to have been an employee of LL & WW trucking, I find moot the respondent's statute of limitations defense and the respondent's contention that the claimant was in fact an independent contractor and not an employee of LL & WW Trucking at the time of his 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.

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 Hood dissents.