NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F410732

JANICE NICHOLS, EMPLOYEE	CLAIMANT
OMAHA SCHOOL DISTRICT, EMPLOYER	RESPONDENT NO. 1
ARKANSAS SCHOOL BOARD ASSOCIATION WCT, INSURANCE CARRIER	RESPONDENT NO. 1
SECOND INJURY FUND	RESPONDENT NO. 2
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 3

OPINION FILED JUNE 8, 2007

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

Claimant represented by the HONORABLE EVELYN BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondent represented by the HONORABLE CURTIS L. NEBBEN, Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals from a decision of the Administrative Law Judge filed August 4, 2006.

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

1. The employer-employee relationship existed on or about October 1, 2004. On that date, the claimant sustained a compensable injury to her left shoulder.

2. All known medical expenses have been paid to or on behalf of the claimant for the shoulder injury.

3. The claimant exercised her right to a one time change of physician for her admittedly compensable shoulder injury, and the Commission selected Dr. Patrick O'Brien of Branson, Missouri to treat the claimant.

4. The claimant's shoulder injury healing period ended on August 24, 2005, on which date she was assigned a 5% permanent partial impairment rating to her left upper extremity on the basis of residual mild strength deficit.

5. Respondents No. 1 have accepted a 3% permanent anatomical rating to the body as a whole for the claimant's compensable shoulder injury.

6. The claimant first saw Dr. Blankenship on August 24, 2005.

7. The claimant has failed to establish by a preponderance of the evidence that she sustained a compensable low back injury on October 1, 2004, as she contends. Specifically, the claimant has failed to establish a causal connection between her low back problems at issue and the incident which occurred on October 1, 2004.

8. Because the claimant has failed to establish by a preponderance of the evidence that she sustained a compensable low back injury on October 1, 2004, the claimant's request for medical treatment and disability benefits associated with her low back problems at issue must be denied.

The claimant alleges that she 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 which was filed August 4, 2006, 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.