

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E802168

RONALD TADLOCK, EMPLOYEE

CLAIMANT

ST. JOSEPH'S REGIONAL HEALTH
CENTER, A SELF INSURED EMPLOYER

RESPONDENT NO. 1

SISTERS OF MERCY HEALTH SYSTEM,
BENEFITS ADMINISTRATOR CARRIER

RESPONDENT NO. 2

DEATH & PERMANENT TOTAL
DISABILITY TRUST FUND

RESPONDENT NO. 3

OPINION FILED JUNE 29, 2007

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

Claimant represented by HONORABLE DONALD C. PULLEN, Attorney
at Law, Hot Springs, Arkansas.

Respondents No. 1 and No. 2 represented by HONORABLE RANDY
P. MURPHY, Attorney at Law, Little Rock, Arkansas.

Respondent No. 3 represented by HONORABLE JUDY RUDD,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Remanded to
Administrative Law Judge.

OPINION AND ORDER

Respondent No. 1 appeals the November 21, 2006,
opinion of the Administrative Law Judge finding that the
claimant proved by a preponderance of the evidence that he
was entitled to a 40% loss in wage earning capacity in
addition to the claimant's 10% permanent anatomical

impairment rating. For reasons explained below, we remand this matter to the Administrative Law Judge to settle the record.

After conducting a de novo review of the record, it appears that the record does not contain all of the evidence introduced at the hearing. The hearing transcript only contains the testimony of the witnesses. Along with the hearing transcript, the Commission's file contains the oral deposition of Dr. Jacob Abraham dated May 11, 2005, marked Claimant's Exhibit 2, the oral deposition of Dr. Anthony Russell dated April 2, 1999, marked Respondents' Exhibit 1, the oral deposition of Dr. Reginald Rutherford dated August 28, 2000, marked Respondent's Exhibit 4, the evidentiary deposition of Dr. James Arthur dated November 18, 1998, marked Respondent's Exhibit 5, and the hearing transcript before Administrative Law Judge Dave Greenbaum dated April 16, 1999, marked Joint Exhibit 1. Additionally, the file contains the following that are not bound in any way but are loose in the Commission's file: the prehearing order filed May 17, 2006, marked Commission's Exhibit 1; Functional

Capacity Evaluation dated February 22, 2005, marked Claimant's Exhibit 4; Functional Capacity Evaluation dated June 25, 1998, marked Respondents' Exhibit 6; Initial Vocational Evaluation dated December 21, 2004, marked Claimant's Exhibit 3 and a packet of the claimant's exhibits marked as Claimant's Exhibit 1. All of these are marked received by the Commission on September 7, 2006, marked as exhibits and listed as exhibits on the exhibits page in the transcript; however, these exhibits are all loose in the Commission file. While it may not be customary to bind the depositions together and only refer to them by reference, the parties specifically introduced these exhibits into the record. Moreover, it has never been the practice or custom to exclude documentary evidence from the official transcript and leave them loose in the Commission File. We can only presume from reading the transcript that these exhibits loose in the Commission file are actually the exhibits introduced at the hearing.

Therefore, we remand this matter to the Administrative Law Judge with specific instructions to

review the exhibits in the file to ascertain that they are the true and complete exhibits introduced by the parties, and to settle the record to include all exhibits to the August 24, 2006, hearing in the official transcript.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner