

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F704496

EDDIE W. DAY,
EMPLOYEE

CLAIMANT

ALPHA UTILITIES, INC.,
EMPLOYER

RESPONDENT

OHIO CASUALTY INSURANCE CO.,
INSURANCE CARRIER

RESPONDENT

OPINION FILED OCTOBER 10, 2008

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

Claimant represented by the HONORABLE EDDIE H. WALKER,
JR., Attorney at Law, Fort Smith, Arkansas.

Respondents represented by the HONORABLE ANDREW M. IVEY,
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 December 26, 2007. In
said order, the Administrative Law Judge made the
following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On January 3, 2007 and March 28, 2007, the relationship of employee-employer-carrier existed between the parties.
3. On the foregoing dates, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$384.00 for total

disability and \$288.00 for permanent partial disability, should such benefits have been appropriate.

4. The claimant has failed to prove by a preponderance of the evidence that he sustained "compensable injuries" to his right hip on either January 3, 2007 and/or March 28, 2007, as that term is defined by Ark. Code Ann. §11-9-102(4)(A)(i). Specifically, the claimant has failed to prove by the greater weight of the credible evidence the occurrence of a physical injury to his right hip on either of these dates, that arose out of and occurred in the course of the employment with the respondent, that was caused by a specific incident, and that is identifiable by time and place of occurrence.

5. The respondents have denied the occurrence of any compensable injury to the claimant's right hip and have controverted this claim in its entirety.

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 compensable injuries that are governed by the Arkansas Workers' Compensation Act, A.C.A. § 11-9-101 et seq. The claimant's alleged injuries are, indeed, injuries that

are covered by the Act; however, the claimant has failed to establish the elements necessary to prove these compensable injuries by a preponderance of the evidence.

Therefore we affirm and adopt the December 26, 2007 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.