

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F706862

STEPHANIE DODSON,
EMPLOYEE

CLAIMANT

POPEYE'S CHICKEN,
EMPLOYER

RESPONDENT

CROCKETT ADJUSTMENT,
TPA

RESPONDENT

OPINION FILED NOVEMBER 17, 2008

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

Claimant represented by the HONORABLE J. MARK WHITE,
Attorney at Law, Bryant, Arkansas.

Respondents represented by the HONORABLE GAIL O.
MATTHEWS, 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 July 30, 2008. 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. The employee/employer/carrier relationship existed at all relevant times, including June 24, 2007.
3. On June 24, 2007, the claimant sustained a compensable injury to her left foot.

4. Respondents accepted the June 24, 2007, injury as compensable and paid temporary total disability benefits through August 5, 2007.

5. Claimant earned an average weekly wage of \$161.50, entitling her to a compensation rate of \$108.

6. Claimant's treating physician released her to return to work on July 30, 2007, but claimant did not return to work to the respondent employer.

7. Respondents did not offer employment to the claimant after July 30, 2007. Claimant did not contact respondents about returning to work after July 30, 2007.

8. Claimant last saw her treating physician on September 13, 2007, and did not return for her follow-up visit scheduled for December 13, 2007.

9. At the time of the injury, claimant was working two jobs. She returned to work at her construction work job in August 2007 and worked more hours than usual for them.

10. The claimant has failed to prove by a preponderance of the evidence that she remained in her healing period or did not return to work from August 6, 2007 through December 13, 2007.

11. No indemnity benefits have been awarded herein. An attorney's fee may be awarded only on indemnity benefits owed and controverted. Ark. Code Ann. §11-9-715. Therefore, no attorney's fees are awarded.

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

Therefore we affirm and adopt the July 30, 2008 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.