

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F708173

SANDRA LUMLEY,  
EMPLOYEE

CLAIMANT

ASPLUNDH TREE SERVICE,  
EMPLOYER

RESPONDENT

LIBERTY MUTUAL INS. COMPANY,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED DECEMBER 12, 2008

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

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

Respondents represented by the HONORABLE JAMES ARNOLD,  
II, Attorney at Law, Fort Smith, Arkansas.

Decision of Administrative Law Judge: Affirmed and  
Adopted.

## OPINION AND ORDER

Claimant appeals an opinion and order of the  
Administrative Law Judge filed May 7, 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. On May 10, 2007, the relationship of employee-employer-carrier existed between the parties.
3. On May 10, 2007, the claimant earned wages sufficient to entitle her to weekly compensation benefits of \$382.00 for total disability and \$287.00 for permanent partial disability.

4. On May 10, 2007, the claimant sustained an employment related accidental fall.

5. The claimant has failed to prove that this accidental employment related fall resulted in any "compensable injuries" to her left foot, left shoulder, or lower back (lumbar spine). Specifically, she has failed to prove that this specific employment related incident was the likely or probable cause of any medically established and objectively supported physical injury to these portions of her body, either directly or in the form of an aggravation of a pre-existing condition.

6. The respondents have denied the occurrence of any compensable injuries to the claimant's left foot, left shoulder, and low back (lumbar spine) 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 she 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 May 7, 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.

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OLAN W. REEVES, Chairman

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KAREN H. McKINNEY, Commissioner

Commissioner Hood dissents.