

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F404310

LESLIE TOIA, EMPLOYEE

CLAIMANT

HTI LOGISTICS, AN UNINSURED EMPLOYER

RESPONDENT

OPINION FILED JANUARY 16, 2008

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

Claimant represented by HONORABLE RICHARD WHIFFEN, Attorney at Law, Sikeston, Missouri.

Respondent represented by HONORABLE JOHN BARTTELT, Attorney at Law, Jonesboro, Arkansas.

Decision of Administrative Law Judge: Affirmed and adopted.

OPINION AND ORDER

This matter is presently before the Full Commission on remand from the Court of Appeals. In an opinion delivered on November 14, 2007, the Court of Appeals reversed the decision of the Full Commission and remanded this case to the Commission for an award of benefits. The Court of Appeals specifically found that the claimant was performing employment services at the time of his injury.

In an opinion dated June 29, 2006, an Administrative Law Judge found that the claimant proved by a preponderance of the evidence that he sustained an injury to

his back arising out of and in the course of his employment for respondent, which rendered him temporarily totally disabled from the period beginning May 10, 2002, and continuing through the date of his healing period, or until such time as he was released to return to gainful employment. On December 13, 2006, the Full Commission reversed the decision of the Administrative Law Judge and found that the claimant failed to prove by a preponderance of the evidence that he was performing employment services at the time of his injury. The claimant then appealed the Full Commission's decision to the Arkansas Court of Appeals. The Court of Appeals found that the Full Commission erred in denying benefits.

Therefore, the Full Commission finds that the claimant proved by a preponderance of the evidence that he sustained a compensable injury on May 9, 2002. The respondents are directed to comply with the award set forth in the opinion of the Administrative Law Judge.

For prevailing on this appeal before the Full Commission, the claimant's attorney is hereby awarded an

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additional attorney's fee in the amount of \$500.00 in accordance with A.C.A. § 11-9-715 (Repl. 2002).

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner