

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F703104

DIANA BEARD (LANGLEY), EMPLOYEE	CLAIMANT
ARKADELPHIA SCHOOL DISTRICT, EMPLOYER	RESPONDENT NO. 1
RISK MANAGEMENT RESOURCES, TPA	RESPONDENT NO. 1
SECOND INJURY FUND	RESPONDENT NO. 2

OPINION FILED NOVEMBER 4, 2009

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 No. 1 represented by the HONORABLE MELISSA WOOD, 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 May 1, 2009. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. An employer-employee relationship existed on September 7, 2006.
2. A compensable injury to claimant's left hand occurred on September 7, 2006.
3. Compensation rates are \$410/308 per week.

4. Respondents have paid all appropriate benefits related to the left hand injury; and paid some initial medical treatment related to the claimant's right upper extremity through on or about March 1, 2007, at which time it controverted all additional benefits related to the right upper extremity.

5. The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable right upper extremity injury arising out of and in the course of her employment on September 7, 2006.

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 1, 2009 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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A. WATSON BELL, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Hood dissents.

**DISSENTING OPINION**

I must respectfully dissent from the majority opinion. Dr. McCoy specifically opined it was probable that the work-related fall triggered or aggravated the claimant's right-hand RSD. The opinion to which Dr. McCoy agreed specifically noted that Ms. Beard's symptoms began in October, after the September 7 fall. This delay in symptoms did not change Dr. McCoy's opinion, and no other doctor has changed her opinion. Dr. Rhodes did offer an opinion about another condition, but Dr. Rhodes has never given an opinion as to the causation of Ms. Beard's right-hand RSD. There is no substantial evidence by which the Commission can reject

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Dr. McCoy's opinion, and thus no substantial evidence by which the majority can deny this claim.

For the aforementioned reasons I must respectfully dissent.

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PHILIP A. HOOD, Commissioner