

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F708217

ESTATE OF CECIL BUCKNER, DECEASED EMPLOYEE	CLAIMANT
U-PULL IT AUTO PARTS, INC., EMPLOYER	RESPONDENT NO. 1
AIG DOMESTIC CLAIMS, INC., INSURANCE CARRIER	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION FILED MARCH 31, 2009

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

Claimant represented by the HONORABLE SCOTT J.
LANCASTER, Attorney at Law, Little Rock, Arkansas.

Respondent No. 1 represented by the HONORABLE CAROL
LOCKARD WORLEY, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE DAVID
PAKE, 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 11, 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 over this claim.

2. The stipulations agreed to by the parties and recited herein are reasonable and are hereby accepted as fact.

3. The decedent, Cecil Buckner, was an employee of U-Pull It Auto Parts, Inc. within the definition of the Arkansas Workers' Compensation Act, A.C.A. § 11-9-102, at the time of the compensable event which lead to his death. I specifically find that the decedent, Cecil Buckner, was not excluded from the definition of employee as defined by the Arkansas Workers' Compensation Act as alleged by the claimant's estate under A.C.A. § 11-9-102(9) (A). I find that the claimant was not required to perform work for a municipality or county or the State of federal government. Therefore, the claimant was an employee within the compass of the Arkansas Workers' Compensation Act at the time of his injury/death.

4. The decedent's widow, Rhonda Buckner, has failed to prove by a preponderance of the evidence that she would be entitled to dependent benefits. I specifically find that the decedent's widow, Rhonda Buckner, was not "wholly and actually dependent" upon the decedent at the time of the decedant's (sic) injury. (A.C.A. § 11-9-527(c) (h)).

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.

Therefore we affirm and adopt the December 11, 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.

A. WATSON BELL, Chairman

KAREN H. McKINNEY, Commissioner

PHILIP A. HOOD, Commissioner
