

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F207838

LEE DUNN, EMPLOYEE	CLAIMANT
GUY KING & SONS, INC., EMPLOYER	RESPONDENT NO. 1
TRANSPORTATION INSURANCE, INSURANCE CARRIER	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION FILED DECEMBER 2, 2009

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

Claimant represented by the HONORABLE FREDERICK S. SPENCER, Attorney at Law, Mountain Home, Arkansas.

Respondents No. 1 represented by the HONORABLE FRANK B. NEWELL, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE CHRISTY KING, 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 7, 2009. 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 the within claim.

2. The employee-employer-carrier relationship existed at 10 all relevant times, including June 7, 2002.
3. Claimant's average weekly wage at the time of his compensable injury was \$441.87; his temporary total disability rate is \$295.00; and his permanent partial disability rate is \$221.00.
4. The claimant sustained a compensable low back injury on June 7, 2002.
5. Some medical benefits and temporary total disability disability compensation have been paid for the claimant back injury. (sic)
6. The claimant has been assessed a 15% impairment rating to the body as a whole for his lumbar spine injury.
7. This claim for additional benefits for the claimant's right shoulder has been controverted in its entirety.
8. The claimant's Motion to Recuse is hereby denied. I find the Act to be constitutional.
9. The claimant failed to establish a compensable consequence injury to his right shoulder by medical evidence supported by objective findings.
10. All issues not litigated herein are reserved under the Act.

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 he 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, 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.

A. WATSON BELL, Chairman

KAREN H. McKINNEY, Commissioner

Commissioner Hood dissents.