

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F709470

MARK DUNN, EMPLOYEE	CLAIMANT
THERMO FISHER SCIENTIFIC, INC., EMPLOYER	RESPONDENT NO. 1
TRAVELERS INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT NO. 1
SECOND INJURY FUND	RESPONDENT NO. 2

OPINION FILED AUGUST 14, 2009

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

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

Respondent No. 1 represented by the HONORABLE JARROD PARRISH, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE DAVID PAKE, Attorney at Law, Little Rock, Arkansas. Mr. Pake did not participate in the hearing due to the issues being litigated.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals from a decision of the Administrative Law Judge filed December 31, 2008.

The Administrative Law Judge entered 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 on February 28, 2007, and at all other relevant times.
3. The claimant's average weekly wage at the time of the alleged injury was \$450.68, which entitles him to a temporary total rate of \$300.00, and a permanent partial disability rate of \$225.00.
4. The claim has been controverted in its entirety.
5. The parties stipulated that Crystal Dunn's testimony would corroborate the testimony of the claimant.
6. The claimant's proffered pages of one through eleven of its Medical Packet are admitted into evidence.
7. The Act is constitutional. The claimant's motion is hereby denied.
8. The claimant failed to prove by a preponderance of the evidence that he suffered a right knee injury on February 28, 2007, during and in the course of his employment with the respondent-employer.
9. The issue of permanency is reserved.

The claimant alleges that he sustained a compensable injury that is governed by the Arkansas Workers' Compensation Act, A.C.A. § 11-9-101 et seq. The claimant's

alleged injury is, indeed, an injury that is covered by the Act; however, the claimant has failed to establish the elements necessary to prove a compensable injury by a preponderance of the evidence.

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.

Thus, we affirm and adopt the 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.