

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F808027

DANNY E. DUVALL,
EMPLOYEE

CLAIMANT

BIBLER BROTHERS LUMBER COMPANY,
EMPLOYER

RESPONDENT

WAUSAU INSURANCE COMPANY,
INSURANCE CARRIER

RESPONDENT

OPINION FILED JULY 6, 2009

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

Claimant represented by the HONORABLE EDDIE H. WALKER,
Attorney at Law, Fort Smith, Arkansas.

Respondents represented by the HONORABLE MICHAEL E.
RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of the
Administrative Law Judge filed March 13, 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 all relevant times, including March 28, 2008.
3. The claimant's average weekly wage at the time of his injury was \$642.00. This entitled him to a

weekly temporary total disability rate of \$428.00, and a permanent partial disability rate of \$321.00.

4. This claimant has been controverted in its entirety.

5. The claimant sustained a compensable injury to his right shoulder and upper right extremity while working for th employer-responent, on March 28, 2008.

6. The claimant did not give the responent-employer notice of his injury until April 1, 2008.

7. The respondents are not liable for any medical treatment or period of disability which occurred prior to their receipt of notice on April 1, 2008.

8. The claimant proved by a preponderance of the evidence that all the additional medical treatment of record was reasonably necessary in connection with his compensable injury. However, the respondents are not liable for the treatment that the claimant received on March 31, 2008 and April 1, 2008. See discussion regarding Notice.

9. The claimant proved by a preponderance of the evidence that he is entitled to temporary total disability compensation from March 29, 2008, until a date yet to be determined, with the exception of the eight days that he worked. However, the respondents are only liable for temporary total disability compensation beginning on April 1, 2008, and continuing until a date yet to be determined. See discussion regarding Notice.

10. The claimant's attorney is entitled to a controverted attorney's fee on all indemnity benefits awarded herein, pursuant to Ark. Code Ann. § 11-9-715.

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 made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the March 13, 2009 decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002).

Since the claimant's injury occurred after July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as amended by Act 1281 of 2001. Compare Ark. Code Ann. § 11-9-715 (Repl. 1996) with Ark. Code Ann. § 11-9-715 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in

accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.