

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F509780

JIM HURLEY, EMPLOYEE

CLAIMANT

WAL-MART ASSOCIATES,
A SELF-INSURED EMPLOYER

RESPONDENT NO. 1

SECOND INJURY FUND, CARRIER

RESPONDENT NO. 2

OPINION FILED AUGUST 25, 2009

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

Claimant is not represented by counsel, but appears *pro se*.

Respondent No. 1 represented by HONORABLE TOD BASSETT,
Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the
Administrative Law Judge filed February 25, 2009.

The Administrative Law Judge entered the following
findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On August 24, 2005, the relationship of employee-self insured employer-third party administrator existed between the parties.

3. On August 24, 2005, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$466.00 for total disability and \$350.00 for permanent partial disability.

4. On August 24, 2005, the claimant sustained compensable injuries to his right upper extremity and left knee.

5. The claimant has failed to prove by the greater weight of the credible evidence that he also sustained a "compensable injury" to his lumbar spine in this same specific employment-related incident. In particular, the claimant has failed to prove by the greater weight of the credible evidence that, on that date, he sustained a physical injury to his lumbar spine that arose out of and occurred in the course of his employment, was caused by a specific incident, and is identifiable by time and place of occurrence.

6. There is no dispute, at the present time, over the claimant's entitlement to medical services for his compensable right upper extremity and left knee injuries.

7. The claimant would not be entitled to any medical services for his lumbar difficulties, as such medical services would not represent reasonably necessary medical services for a compensable injury, under Ark. Code Ann. §11-9-508.

8. Temporary total disability benefits have been paid to the claimant for his compensable right upper extremity and left knee injury from August 24, 2005 through November 2, 2005.

9. The claimant would not be entitled to any additional temporary total disability benefits for his non compensable lumbar difficulties.

10. The respondent has controverted the claimant's entitlement to any benefits for his lumbar difficulties.

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.