

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F804316 & F804319

CELIO LOPEZ-REGALADO, EMPLOYEE	CLAIMANT
TYSON POULTRY, INC., EMPLOYER	RESPONDENT
TYNET, CARRIER	RESPONDENT

OPINION FILED JUNE 22, 2009

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

Claimant represented by HONORABLE EVELYN BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondent represented by HONORABLE E. DIANE GRAHAM, Attorney at Law, Fort Smith, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the Administrative Law Judge filed September 17, 2008.

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

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on June 18, 2008, and contained in a pre-hearing order filed June 20, 2008, are hereby accepted as fact.
2. The parties' stipulation that at the time of claimant's alleged gradual onset injury in April 2007 he was earning an average weekly wage of \$422.83 which

would entitle him to compensation at the rate of \$282.00 for total disability benefits and \$212.00 for permanent partial disability benefits is also hereby accepted as fact.

3. The parties' stipulation that the last payment of compensation benefits with respect to the June 12, 2002 injury was for medical treatment provided on August 30, 2002 is also hereby accepted as fact.

4. Claimant's claim for additional benefits for the back injury of June 12, 2002 is barred by the statute of limitations.

5. Claimant's claim for benefits relating to a gradual onset injury in April 2007 is not barred by the statute of limitations.

6. Claimant has failed to prove by a preponderance of the evidence that he suffered a compensable gradual onset injury to his back while employed by respondent.

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.