

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F803786

ROBERT McFERRON, EMPLOYEE

CLAIMANT

USA TRUCK, INC.,  
A SELF INSURED EMPLOYER

RESPONDENT

**OPINION FILED AUGUST 26, 2009**

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

Claimant represented by HONORABLE KENNETH A. OLSEN, Attorney at Law, Little Rock, Arkansas.

Respondent represented by HONORABLE SCOTT ZUERKER, 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 January 13, 2009.

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

1. The stipulations agreed to by the parties at the prehearing conference conducted on August 20, 2008, and contained in a pre-hearing order filed August 21, 2008, are hereby accepted as fact.

2. The claimant failed to prove by a preponderance of the evidence that the specific incident he alleges to have

occurred on March 16, 2008, in West Memphis actually occurred.

3. The claimant failed to prove by a preponderance of the evidence that he suffered a compensable injury in this matter.

4. The claimant is not entitled to medical treatment in this matter.

5. The claimant is not entitled to temporary total disability in this matter.

6. The claimant's attorney is not entitled to an attorney's fee in this matter.

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.

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A. WATSON BELL, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Hood dissents.

**DISSENTING OPINION**

I must respectfully dissent from the majority opinion. The claimant has consistently testified that he injured his back while pulling the pin on the fifth wheel while he was in West Memphis. His log book indicates that he was in West Memphis on March 16, 2008. I find, based on the claimant's credible testimony corroborated by the log book, that the claimant has proved by a preponderance of the

evidence that he sustained a compensable injury on March 16, 2008 and would award benefits accordingly.

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PHILIP A. HOOD, Commissioner