

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F406472

MARTHA TAGGART,
EMPLOYEE

CLAIMANT

MID-AMERICA PACKAGING,
EMPLOYER

RESPONDENT

CONTINENTAL CASUALTY COMPANY,
INSURANCE CARRIER

RESPONDENT

OPINION FILED JUNE 12, 2009

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

Claimant represented by the HONORABLE KENNETH E. BUCKNER,
Attorney at Law, Pine Bluff, Arkansas.

Respondent represented by the HONORABLE FRANK NEWELL,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The Arkansas Court of Appeals has reversed the
Commission in the above-styled matter and has remanded for
further proceedings. *Taggart v. Mid America Packaging*, CA
08-1303 (April 29, 2009). The claimant also moves the Full
Commission to expedite the case and enter a new order.
Based on our *de novo* review of the entire record, and in
accordance with the remand from the Court of Appeals, the

Full Commission finds that the instant claimant sustained wage-loss disability in the amount of 50%.

The claimant, now age 55, began working for the respondent-employer in 1977. The claimant sustained compensable injuries on December 31, 2003 and worked until May 2, 2004. The respondents terminated the claimant's employment on August 1, 2005. The company did not have a job available within the claimant's physical limitations. The respondents accepted a 2% anatomical impairment for the claimant's right lower extremity and a 7% anatomical impairment for the claimant's compensable lumbar spine injury. The Court of Appeals noted that the claimant earned \$67,721.07 during the period from June 6, 2003 to June 11, 2004. The Court also noted that the claimant was attending college to become a social worker and that the most the claimant would be able to earn in this profession or a sedentary occupation would be \$35,000 annually. The Court therefore held that "substantial evidence does not support a finding that appellant's wage-loss disability was no more than twenty percent."

Therefore, based on our *de novo* review and the remand from the Court of Appeals, the Full Commission finds that

the claimant has sustained wage-loss disability in the amount of 50% in excess of the claimant's anatomical impairment. We reverse the administrative law judge's finding that the claimant sustained only 20% wage-loss disability. The claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. §11-9-715(Repl. 2002). For prevailing on appeal to the Full Commission, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.