

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F702953

GISELE M. WESLEY, EMPLOYEE CLAIMANT

GEORGIA PACIFIC, LLC., EMPLOYER RESPONDENT

INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA C/O SEDGWICK
CLAIMS MANAGEMENT SERVICES,
CARRIER/TPA RESPONDENT

OPINION FILED JULY 6, 2009

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

Claimant represented by HONORABLE J. MARK WHITE, Attorney at Law, Bryant, Arkansas.

Respondent represented by HONORABLE BETTY J. HARDY, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The respondent appeals from a decision of the Administrative Law Judge filed March 24, 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. The employee/employer/carrier relationship existed at all relevant times, including Mrch, 2006 and March, 2007.
3. The respondents have controverted this claim in its entirety.
4. The claimant earned sufficient wages to entitled her to an average weekly wage of \$699.55. Her compensation rate for temporary total disability is \$466.00 per week. Her compensation rate for permanent partial disability is \$350.00 per week.
5. For the claimant's first period of disability at issue in this claim, the claimant received short-tern(sic) disability payments of \$297.00 per week for the entire period, except for the first week. For the second period of disability at issue in this claim, the claimant received short-term disability payments of \$313.00 per week for the entire period, except for the first week. There was a seven-day waiting period for both periods of disability.
6. There are some offsets in this case under Arkansas Code Annotated § 11-9-411, but the details of those offsets will be worked out by the parties if benefits are awarded.
7. The claimant has established all the requirements necessary to establish that her bilateral carpal tunnel syndrome is a compensable injury.
8. The claimant has established by a preponderance of the evidence that the treatment, diagnostic testing, and surgery related to her bilateral carpal tunnel syndrome documented in the Joint Exhibit 1

was reasonable necessary for treatment of the claimant's compensable injury.

9. The claimant has established by a preponderance of the evidence that she was temporarily totally disabled from June 27, 2007, through September 4, 2007, and again from June 23, 2008, through September 18, 2008.
10. The claimant's attorney is entitled to a 25% attorney's fee calculated on the entire period of temporary total disability awarded herein, even though the respondents may not pay the entire award to the claimant due to a possible offset against liability under Arkansas Code Annotated § 11-9-411 for previous payments for the same periods of disability from a difference source of insurance.

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.

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).

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

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.