

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F901908

LAURA AJPUAC,  
EMPLOYEE

CLAIMANT

TYSON POULTRY, INC.,  
EMPLOYER

RESPONDENT

TYNET CORPORATION, INC.,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED MAY 10, 2010

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

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

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

Decision of Administrative Law Judge: Affirmed and  
Adopted.

## OPINION AND ORDER

The claimant appeals an administrative law judge's  
opinion filed October 7, 2009. The administrative law  
judge made the following Findings Of Fact And

### Conclusions Of Law:

1. The stipulations agreed to by the parties  
at the pre-hearing conference conducted on  
April 23, 2009, and contained in a pre-hearing  
order filed April 24, 2009, are hereby  
accepted as fact.

2. The claimant has proven by a preponderance  
of the evidence that she has objective medical  
findings of lumbar spine difficulties.

3. The claimant failed to prove a causal connection between her alleged fall and her objective medical findings of lumbar difficulties.

4. The fall that the claimant suffered was idiopathic in nature.

5. The claimant failed to prove that she sustained a compensable work related injury on December 1, 2008.

6. The claimant failed to prove her entitlement to medical treatment and temporary total disability benefits.

After reviewing the entire record *de novo*, it is our opinion that the administrative law judge's decision is supported by a preponderance of the evidence, correctly applies the law, and should be affirmed, except for a proofreading error in Finding of Fact No. 5. That Finding should read, "5. The claimant failed to prove that she sustained a compensable work related injury on December 17, 2008." Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are otherwise correct and are, therefore, adopted by the Full Commission.

Therefore, we affirm and adopt the October 7, 2009 decision of the administrative law judge, including the corrected 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 majority has affirmed and adopted the Administrative Law Judge's opinion. In this opinion, the Administrative Law Judge states that the claimant is not a credible witness. I disagree. After a de novo review of the record, I find that the claimant credibly testified as to the incident and the injuries she sustained in the incident. The claimant's back injury is well-documented and not disputed by the respondent. Although there were some discrepancies in the claimant's testimony regarding a pre-existing back condition, I find the discrepancies to be minor and due to the claimant's nerves rather than a lack of veracity.

Furthermore, I do not believe the claimant's fall was idiopathic. I find that the fall was directly caused by the stress of the encounter with a co-worker and the claimant's position atop a stool.

In short, I find the claimant to be a credible witness who sustained a compensable back injury during a work-related fall on December 17, 2008 and I would award benefits accordingly.

For the aforementioned reasons I must respectfully dissent.

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PHILIP A. HOOD, Commissioner

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