

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F610850

GLEND A DEARMAN, EMPLOYEE	CLAIMANT
DELTIC TIMBER CORP, EMPLOYER	RESPONDENT NO. 1
TRAVELERS INSURANCE COMPANY, INC., INSURANCE CARRIER	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION FILED MARCH 5, 2010

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

Claimant represented by the HONORABLE RONALD L. GRIGGS,
Attorney at Law, El Dorado, Arkansas.

Respondent No. 1 represented by the HONORABLE PHILLIP
CUFFMAN, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE CHRISTY KING,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The Arkansas Court of Appeals has reversed and remanded
the Full Commission's decision that the claimant was not
performing employment services at the time of her injury.
Dearman v. Deltic Timber Corp., CA09-875 (Jan. 27, 2010).

The respondents appeal and the claimant cross-appeals an administrative law judge's opinion filed December 4, 2008. The administrative law judge made the following Findings Of Fact and Conclusions Of Law:

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The stipulations agreed to by the parties and recited herein are reasonable and are hereby accepted as fact.
3. The claimant proved by a preponderance of the evidence that she sustained a compensable left shoulder injury while in the respondent's employ on September 18, 2006.
4. The claimant has proven she sustained a compensable left shoulder injury, and has also proven by a preponderance of the evidence that the medical treatment she received to her left shoulder that is contained in the record herein was reasonable, necessary, and related to her compensable shoulder injury and therefore all medical contained in the record herein related to the claimant's left shoulder is the responsibility of the respondents.
5. The claimant has failed to prove by a preponderance of the evidence that she is now permanently and totally disabled due to her compensable left shoulder injury.
6. Upon consideration of all relevant wage loss factors, I find that claimant established a decrease in wage earning capacity equal to 10% to the whole body, and is therefore entitled to wage loss disability benefits. The claimant did prove by a preponderance of the evidence that her compensable injury is the major cause of her decrease in earning capacity. Respondent No. 1 is

liable for wage loss disability benefits in the amount of 10% to the body as a whole, over and above the claimant's 11% anatomical impairment rating.

7. Claimant's attorney, the Honorable Ronald Griggs, is entitled to the maximum attorney's fees under A.C.A. §11-9-715(a)(2)(A).

8. All issues not addressed herein are reserved.

Based on our *de novo* review of the entire record, and in accordance with the mandate from the Arkansas Court of Appeals, 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. We find from a preponderance of the evidence that the administrative law judge's findings of fact are correct and are, therefore, adopted by the Full Commission.

Therefore, we affirm and adopt the December 4, 2008 decision of the administrative law judge, including all findings and conclusions therein, as the decision of the Full Commission. The claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. §11-9-715(Repl. 2002). For prevailing in part 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).

Dearman - F610850

4

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.