

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F005412

MELANIE KELLEY, EMPLOYEE	CLAIMANT
COOPER STANDARD AUTOMOTIVE, INC., EMPLOYER	RESPONDENT NO. 1
ST. PAUL TRAVELERS INS. COMPANY, INSURANCE CARRIER	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

ORDER FILED SEPTEMBER 7, 2010

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

Claimant represented by the HONORABLE FLOYD M. THOMAS, JR.,
Attorney at Law, El Dorado, Arkansas.

Respondent No. 1 represented by the HONORABLE MICHAEL J.
DENNIS, Attorney at Law, Pine Bluff, Arkansas.

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

ORDER

Respondent No. 1 moves the Full Commission to dismiss
the claimant's appeal. We deny Respondent No. 1's motion.

In an opinion filed July 9, 2010, an administrative law
judge found, among other things, that the claimant failed to
prove she was permanently and totally disabled. The
administrative law judge found that the claimant failed to

prove she was entitled to wage-loss disability benefits exceeding the claimant's anatomical impairment, and that the temporary total disability rate was *res judicata*. The claimant filed a timely letter to the Clerk of the Commission on August 9, 2010, to wit: "Notice is hereby given that the claimant, Melanie Kelley, appeals to the Full Commission the decision of Administrative Law Judge Dale Douthit filed on July 9, 2010."

Respondent No. 1 contends that the claimant's letter is fatally defective. Respondent No. 1 states, among other things, that the claimant's letter is insufficient to specify any issues appealed. Although the Commission has the statutory authority to require that parties specify all issues to be presented for review, it also has the statutory duty to decide the issue before it on the basis of the record as a whole. *White v. Air Sys., Inc.*, 33 Ark. App. 56, 800 S.W.2d 726 (1990), citing *McCoy v. Preston Logging*, 21 Ark. App. 68, 728 S.W.2d 520 (1987). See also Ark. Code Ann. §11-9-704(c)(2) (Repl. 2002). Moreover, the Full Commission does not review the administrative law judge's decision to determine whether there was substantial evidence to support the administrative law judge's findings; rather,

the Full Commission makes its own findings in accordance with the preponderance of the evidence. See *Tyson Foods, Inc. v. Watkins*, 31 Ark. App. 230, 792 S.W.2d 348 (1990). In her response to Respondent No. 1's motion, the claimant states that she will specify and itemize each area upon which she seeks review in her brief on appeal.

The Full Commission denies Respondent No. 1's motion to dismiss the claimant's appeal. We direct the Clerk of the Commission to establish a briefing schedule and to place this matter on our submission docket.

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.