

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. F810072

ELIZABETH MCCALLUM, EMPLOYEE	CLAIMANT
BUTTERBALL TURKEY, EMPLOYER	RESPONDENT
ACE AMERICAN INSURANCE, CARRIER	RESPONDENT

OPINION FILED SEPTEMBER 13, 2010

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

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

Respondents represented by the HONORABLE CURTIS NEBBEN,
Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals from a decision of the
Administrative Law Judge filed January 8, 2010.

The Administrative Law Judge entered the following
findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at the prehearing conference conducted on August 12, 2009, and contained in a pre-hearing order filed August 13, 2009, are hereby accepted as fact.
2. The claimant has failed to prove by a preponderance of the evidence that she

suffered a compensable injury to her back while employed by the respondent.

3. The claimant is not entitled to medical treatment in this matter.

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.

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

KAREN H. MCKINNEY, Commissioner

Commissioner Hood dissents.

DISSENTING OPINION

I must respectfully dissent from the majority opinion. After a de novo review of the record, I find that the claimant sustained a compensable gradual onset back injury and I would award benefits accordingly.

The medical evidence in this case is straightforward. The claimant is suffering from a herniated disc. As for the causation of the claimant's injury, I find the claimant to be a credible witness. The claimant had no problems at all with her back prior to starting the job bagging turkeys. There was no medical treatment, no chiropractic care, no prescription medicine, and no back pain. The only logical cause of the claimant's back injury is her work; she did a rapid and repetitive job, twisting, pulling, and lifting for eight hours a day, five days a week, bagging turkeys. As such, it is my opinion that the claimant has proved by a preponderance of the evidence that she sustained a compensable gradual onset back injury pursuant to Ark. Code Ann. §11-9-102(4)(A)(ii)(b).

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For the aforementioned reasons I must respectfully dissent.

PHILIP A. HOOD, Commissioner