

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F904440

BRUNO A. MENDOZA,
EMPLOYEE

CLAIMANT

ODOM'S TENNESSEE PRIDE SAUSAGE,
EMPLOYER

RESPONDENT

WAUSAU INSURANCE COMPANY,
INSURANCE CARRIER

RESPONDENT

OPINION FILED DECEMBER 22, 2010

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

Claimant represented by the HONORABLE STEVEN R. MCNEELY,
Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE MICHAEL E.
RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Claimant appeals an opinion and order of the
Administrative Law Judge filed August 19, 2010. In said
order, 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 hereby accepted as fact.

3. The claimant has failed to prove by a preponderance of the evidence that his fall on April 6, 2009, was work related.
4. The weight of the credible evidence shows that the claimant suffered an idiopathic fall on April 6, 2009.
5. Therefore, since the claimant's fall was idiopathic in nature, the claimant has failed to prove by a preponderance of the evidence that he suffered a compensable head injury on April 6, 2009.
6. Since the claimant has failed to prove by a preponderance of the evidence that he sustained a compensable head injury on April 6, 2009, the other issues outlined herein are rendered moot.

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.

The claimant alleges that he sustained compensable injuries that are governed by the Arkansas Workers' Compensation Act, A.C.A. § 11-9-101 et seq. The claimant's alleged injuries are, indeed, injuries that are covered by the Act; however, the claimant has failed

to establish the elements necessary to prove these compensable injuries by a preponderance of the evidence.

Therefore we affirm and adopt the August 19, 2010 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 employer, by requiring the dizzy claimant to walk down the concrete hallway, placed the employee in a position which increased the dangerous effects of the fall. As such, the claimant's head injury is compensable.

An idiopathic fall is one whose cause is personal in nature, or peculiar to the individual. ERC Contractor Yard & Sales v. Robertson, 335 Ark. 63, 977

S.W.2d 212 (1998). Because an idiopathic fall is not related to employment, it is generally not compensable unless conditions related to employment contribute to the risk by placing the employee in a position which increases the dangerous effect of the fall. Id.

Here, in addition to the supervisor having the admittedly dizzy claimant stand up and walk down the hall, the supervisor also, according to his testimony, stopped Angel from trying to place his smock under the claimant's head, and would not allow other co-workers to assist either. The claimant was diagnosed with a "severe closed head injury with multiple areas of hemorrhage."

All the evidence in this case supports reversal of the Administrative Law Judge's opinion. The testimony of the supervisor was that he knew the claimant was dizzy and, regardless, got him on his feet and started walking him down the hall on a concrete floor. The supervisor stopped the claimant's co-workers from assisting him by placing something under his head. As such, although the claimant's dizziness may have been idiopathic, the respondent placed the claimant in a position which increased the dangerous effects of the fall, and his closed head injury is compensable.

For the aforementioned reasons I must respectfully dissent.

PHILIP A. HOOD, Commissioner