

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F908430

ELMER R. NICHOLS,  
EMPLOYEE

CLAIMANT

TED HUGHES, d/b/a  
HUGHES COUNTERTOPS,  
EMPLOYER

RESPONDENT

STATE FARM FIRE & CASUALTY,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED JULY 14, 2010

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

Claimant represented by the HONORABLE PHILIP M. WILSON,  
Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE CAROL WORLEY,  
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and  
Adopted.

## OPINION AND ORDER

Respondents appeal an opinion and order of the  
Administrative Law Judge filed April 28, 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 of the within claim.
2. The employee-employer-carrier relationship existed at all relevant times.
3. The respondent-employer carried workers' compensation coverage for himself at the time of the claimant's injury.

4. The preponderance of the evidence demonstrates that the claimant was an employee of Ted Hughes d/b/a Hughes Countertops.
5. Ted Hughes/Hughes Countertops employed two or more employees, and was engaged in building or building repair repair work.
6. The claimant's average weekly wage at the time of his compensable injury was \$400.00. He is entitled to a temporary total disability rate of \$267.00. His permanent partial disability rate is \$200.00.
7. The claimant proved by a preponderance of the credible evidence that he sustained a compensable injury to partial amputation to his left thumb during and in the course of his employment with the respondent-employer, on August 11, 2009.
8. The claimant proved by a preponderance of the evidence his entitlement to all the medical treatment of record pursuant to Ark. Code Ann. § 11-9-508(a).
9. The claimant proved his entitlement to temporary total disability compensation from August 12, 2009, until March 29, 2010, with the exception of the week and a half wherein he worked doing some painting, and excluding the \$1,000 he made selling scrap metal.
10. The respondent-employer was given notice of the claimant's compensable injury on August 11, 2009. Therefore, the respondents are liable for benefits beginning on said date.
11. This claim has been controverted in its entirety.
12. The claimant's attorney is entitled to a controverted attorney's fee on all indemnity benefits awarded herein, pursuant to Ark. Code Ann. § 11-9-715.

13. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

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 made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the April 28, 2010 decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002).

Since the claimant's injury occurred after July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as amended by

Act 1281 of 2001. Compare Ark. Code Ann. § 11-9-715 (Repl. 1996) with Ark. Code Ann. § 11-9-715 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

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A. WATSON BELL, Chairman

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PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.