

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. F803188

EPHRIAM SEREAL, EMPLOYEE	CLAIMANT
PULASKI COUNTY SPECIAL SCHOOL DISTRICT, EMPLOYER	RESPONDENT
ARKANSAS SCHOOL BOARDS ASSOC. WCT C/O RISK MANAGEMENT RESOURCES, CARRIER/TPA	RESPONDENT

OPINION FILED JUNE 3, 2010

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

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

Respondents represented by the HONORABLE BETTY HARDY,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals from a decision of the
Administrative Law Judge filed December 8, 2009.

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

1. The employee-employer relationship existed on August 8, 2007.
2. The claim has been controverted in its entirety.

3. The claimant's average weekly wage of \$169.40 entitles him to compensation rates of \$113.00 per week for temporary total disability benefits and for permanent partial disability benefits.
4. The claimant has failed to prove by a preponderance of the evidence that he sustained a compensable back injury on or about August 8, 2007.

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 back injury on August 8, 2007 while lifting books and a desk. Dr. Richard Jordan, a neurosurgeon, first saw the claimant on February 4, 2009, and reviewed a prior MRI. From the review of the MRI and his own physical examination, Dr. Jordan determined that the claimant had a herniated disc at the L4-5 level. On February 16, 2009 Dr. Jordan performed a left hemilaminectomy and discectomy. Dr. Jordan stated in deposition that the claimant told him that the injury was caused by lifting boxes and a desk. Dr. Jordan indicated in a letter regarding the claimant's 8% impairment rating that the major cause of

the claimant's impairment was the work related injury. Dr. Jordan stated in deposition that the type of injury the claimant has is consistent with his description of lifting boxes and a desk. I agree with Dr. Jordan. The claimant gave credible testimony as to the lifting incident at work, and there is nothing in the record to indicate that the claimant has been involved in any other incident which may have caused his back injury.

I would award the claimant all benefits associated with his compensable back injury. For the aforementioned reasons I must respectfully dissent.

PHILIP A. HOOD, Commissioner