

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. F900932

ROBERT WHITLOCK, EMPLOYEE	CLAIMANT
RHEEM MANUFACTURING CO., EMPLOYER	RESPONDENT
OLD REPUBLIC INSURANCE, CARRIER/TPA	RESPONDENT

OPINION FILED JUNE 3, 2010

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

Claimant represented by the HONORABLE JARED MEDLOCK,  
Attorney at Law, Fort Smith, Arkansas.

Respondents represented by the HONORABLE DIANE GRAHAM,  
Attorney at Law, Fort Smith, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals from a decision of the  
Administrative Law Judge filed November 12, 2009.

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

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on June 3, 2009, and contained in a pre-hearing order filed June 4, 2009, are hereby accepted as fact.
2. The claimant has proven the existence of objective medical findings regarding his lower back.

3. The claimant has failed to prove that he suffered a compensable injury on January 19, 2009.
4. The claimant's current back difficulties are a recurrence of a pre-existing condition and not an aggravation of a pre-existing condition.
5. The claimant has failed to prove his entitlement to benefits from his alleged specific incident of January 19, 2009.

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.

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A. WATSON BELL, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Hood concurs.

**CONCURRING OPINION**

I concur with the majority opinion. The claimant has clearly proved a recurrence of his 2006 compensable injury. A recurrence is not a new injury, but merely another period of incapacitation resulting from a previous injury. Crudup v. Regal Ware, Inc., 341 Ark. 804, 20 S.W.3d 900 (2000). A recurrence exists when the second complication is a natural and probable consequence of a prior injury. Id. An aggravation is a new injury with an independent cause and, therefore, must meet the requirements for a compensable injury. Crudup v. Regal Ware, Inc., 341 Ark. 804, 20 S.W.3d 900 (2000); Ford v. Chemipulp Process, Inc., 63 Ark. App. 260, 977 S.W.2d 5 (1998). Unfortunately, this claim is not before the Commission on the issue of

recurrence of the 2006 compensable injury. As such, while the Commission could potentially award benefits on a recurrence of the 2006 injury, as the claimant has not met the elements for a compensable aggravation injury, the Commission cannot award benefits for an injury occurring in 2009.

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PHILIP A. HOOD, Commissioner