

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F909099

BONNIE CAROLYN GUNTER,
EMPLOYEE

CLAIMANT

CIVITAN CENTER, INC.,
EMPLOYER

RESPONDENT

RISK MANAGEMENT RESOURCES,
INSURANCE CARRIER

RESPONDENT

OPINION FILED MARCH 22, 2011

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 MELISSA WOOD,
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 October 25, 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 are hereby accepted as fact.
3. The claimant has failed to prove, by a preponderance of the evidence, that she sustained an injury arising out of and during the course of her employment on July 30, 2009,

which was the result of a specific incident occurring at the workplace.

4. The claimant has failed to prove that her physical problems, need for treatment, and disability after July 30, 2009, are causally related to an injury sustained while working for Civitan Center, Inc.

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 she 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 October 25, 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 the claimant to be a credible witness. On the day of the hearing, she was sixty-six years old, a widow, and the mother of six children. She had worked as a cook at the Civitan Center for five years. The claimant testified that she did not have any problems working because of her back before the lifting incident on July 30, 2009. As for the incident, the claimant testified:

I was lifting boxes of frozen food and putting them up higher on the shelves and rearranging the freezer because I had a truck coming in Friday morning, and whenever I lifted the box up, well, I felt like a --something wasn't right in my back, pop or whatever you want to call it, in the lower part of my hip. I call it my hip. They say it's

my back, but that's two different stories. Well, anyways, I didn't think anything about it at the time because I'm kind of stubborn and I keep a-working. You know, as long as I'm able to stand up, I'll work.

The claimant described the box she was lifting as a big box of frozen broccoli weighing 40-45 pounds.

Simply put, I believe the claimant. I find her to be a very credible witness. As such, I would award her benefits related to the injury she sustained on July 30, 2009.

PHILIP A. HOOD, Commissioner