

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F908093

KYLE WATZ (DEC'D.), EMPLOYEE	CLAIMANT
RED ROBIN GOURMET BURGERS, EMPLOYER	RESPONDENT
FEDERAL INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT

OPINION FILED JUNE 8, 2011

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

Claimant represented by the HONORABLE JASON HATFIELD, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE LEE MULDROW, 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 March 9, 2011. 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 the parties and issue of whether the claimant's fatal injury occurred in the course of his employment and while he was performing employment services.

2. On January 8, 2006, the relationship of employee-employer-carrier existed between the parties.
3. The greater weight of the credible evidence fails to show that, at the time of the claimant's fatal injury, he was acting in the course of his employment with the respondent.
4. The greater weight of the credible evidence fails to prove that, at the time of the claimant's fatal injury, he was "performing employment services", as required by Ark. Code Ann. §11-9-102(4)(B)(iii). Specifically, the greater weight of the credible evidence fails to establish that, at that time, the claimant was performing his regular employment activities, any activities inherently necessary to carry out his regular employment activities, or any activities that would advance his employer's interests directly or indirectly.
5. The claimant would have no right to benefits, under the Arkansas Workers' Compensation Act for his fatal injury of January 8, 2006.

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 March 9, 2011, 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).

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IT IS SO ORDERED.

A. WATSON BELL, Chairman

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner