

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G701275

ARTHUR FANNING,
EMPLOYEE

CLAIMANT

WASTE MANAGEMENT, INC.,
EMPLOYER

RESPONDENT NO. 1

GALLAGHER-BASSET SERVICES,
CARRIER/TPA

RESPONDENT NO. 1

DEATH AND PERMANENT TOTAL
DISABILITY TRUST FUND

RESPONDENT NO. 2

OPINION FILED MARCH 3, 2022

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

Claimant represented by the HONORABLE ANDY CALDWELL, Attorney at Law, Little Rock, Arkansas.

Respondent No. 1 represented by the HONORABLE MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE DAVID L. PAKE, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondents No. 1 appeal and Claimant cross-appeals an opinion and order of the Administrative Law Judge filed August 17, 2021. In said

order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at the pre-hearing conference on February 24, 2021 and contained in a Pre-hearing Order filed that same date, are hereby accepted as fact.
2. The claimant has proven by a preponderance of the evidence that he is entitled to permanent partial disability regarding an anatomical impairment rating that is greater than the stipulated 15% to the body as a whole. Specifically, the claimant is entitled to an anatomical impairment rating of 30% to the body as a whole. Therefore, claimant is entitled to an additional 15% anatomical impairment rating to the body as a whole over and beyond what has been stipulated to for a total of a 30% anatomical impairment rating to the body as a whole.
3. The claimant has failed to prove by a preponderance of the evidence that he is entitled to permanent and total disability.
4. The claimant has proven by a preponderance of the evidence that he is entitled to wage loss disability in an amount that would be equal to a 30% whole body impairment.
5. The claimant has failed to prove by a preponderance of the evidence that the respondent[s] should be penalized under Ark. Code Ann. §11-9-802.
6. The claimant has proven by a preponderance of the evidence that his attorney is entitled to an attorney's fee in this matter.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's August 17, 2021 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 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. 2012).

The claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. §11-9-715(a)(Repl. 2012). For prevailing in part on appeal to the Full Commission, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark Code Ann. §11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

M. SCOTT WILLHITE, Commissioner