

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G901314

CALVIN KIRKLIN,
EMPLOYEE

CLAIMANT

RAILROAD SWITCHING SERVICES, INC.,
EMPLOYER

RESPONDENT

LIBERTY MUTUAL GROUP,
INSURANCE CARRIER

RESPONDENT NO. 1

DEATH & PERMANENT TOTAL
DISABILITY TRUST FUND

RESPONDENT NO. 2

OPINION FILED OCTOBER 25, 2022

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

Claimant represented by the HONORABLE STEPHEN L. CURRY, Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 represented by the HONORABLE ZACHARY F. RYBURN, Attorney at Law, Little Rock, Arkansas.

Respondents 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

Claimant appeals an opinion and order of the Administrative Law Judge filed April 13, 2022. 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 proposed stipulations set forth above are reasonable and hereby accepted as fact.
3. The Claimant failed to prove by a preponderance of the evidence that the medical treatment rendered by Dr. William Rutledge was reasonably necessary in connection with his compensable back strain and left leg injuries of February 11, 2019. He also failed to prove his entitlement to any future medical treatment for his compensable injuries.
4. The Claimant failed to prove by a preponderance of the evidence his entitlement to temporary total disability compensation from February 12, 2019 until a date yet to be determined.
5. The issues of whether the medical treatment rendered by Dr. Rutledge was unauthorized and a controverted attorney's fee have been rendered moot pursuant to the foregoing findings. As a result, they have not been discussed herein this Opinion.
6. All issues not litigated at the hearing are hereby reserved under the Arkansas Workers' Compensation Act.

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.

Therefore 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.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

Commissioner Willhite concurs and dissents.

CONCURRING AND DISSENTING OPINION

After my *de novo* review of the entire record, I concur in part with but must respectfully dissent in part from the majority opinion. I concur with the majority's findings that the claimant failed to prove that he was entitled to the medical treatment rendered by Dr. William Rutledge and that he failed to prove that he is entitled to TTD benefits. However, I must dissent from the majority opinion finding that the claimant is not entitled to any future medical treatment for his compensable injuries.

I first note that this claim was accepted by the respondents as a medical only claim. The claimant's authorized treating physician was Dr.

Phillip Smith. When Dr. Smith released the claimant at MMI on April 4, 2019, he recommended that the claimant continue using a warm compress and anti-inflammatories as needed for pain. Dr. Smith also indicated in his medical record, "I will see him back as needed". This appears to have left the door open for the claimant to receive additional medical treatment.

Additionally, Dr. Rutledge found that the claimant suffered from muscle spasms and prescribed medication for him. Although I agree that Dr. Rutledge's treatment was unauthorized and we are precluded from awarding additional benefits for the treatment he provided, it is clear from Dr. Rutledge's findings that additional medical treatment for at least pain and spasms is reasonable and necessary in this case.

For the foregoing reasons, I concur in part and dissent in part from the majority opinion.

M. SCOTT WILLHITE, Commissioner