

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. G907727

FREDERICK L. WILLIAMS, EMPLOYEE	CLAIMANT
ARKANSAS DEMOCRAT GAZETTE, EMPLOYER	RESPONDENT
GALLAGHER BASSETT SERVICES, INC. INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED FEBRUARY 9, 2021

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

Claimant appeared *pro se*.

Respondents represented by the HONORABLE RICK BEHRING, JR.,
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 November 12, 2020. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The stipulations to which the parties agreed in the Prehearing Order filed July 1, 2020, which they affirmed on the record at the hearing, are hereby accepted as facts.
2. Soon after his (thankfully) minor right middle finger laceration/injury of October 11, 2019, the claimant tested positive for the presence of an illegal drug, marijuana, in his system. By operation of law, this fact requires the claimant to not only meet the Act's burden of proof in establishing he had sustained a "compensable injury," but also to demonstrate his

alleged injury was not “substantially occasioned” by the use of an illegal drug – here, marijuana – pursuant to Ark. Code Ann. Section 11-9-102(B)(iv)(a).

3. The claimant has failed to meet his burden of proof in overcoming the statutorily mandated legal presumption that his minor right middle finger injury of October 11, 2019, was not “substantially occasioned” by his marijuana use.
4. Moreover, the claimant failed to prove by a preponderance of the credible evidence of record that his minor right middle finger injury was caused by any malfunction of the conveyor belt mechanism. In fact, there exists no evidence whatsoever the conveyor belt malfunctioned in any way. All the credible evidence of record conclusively demonstrates the conveyor belt was functioning properly both at the time of and after the subject work incident.
5. The preponderance of the credible evidence of record reveals the claimant’s October 11, 2019, minor right middle finger injury occurred as a result of his own impaired perception, inattentiveness, poor judgment, and/or failure or refusal to recall and/or follow his employer’s instructions and warnings concerning his safety-sensitive job duties and responsibilities. The claimant admitted on the record he had problems with past drug abuse, including marijuana and alcohol, for which he had undergone treatment on a couple of occasions.

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 November 12, 2020 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

M. SCOTT WILLHITE, Commissioner