

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G805984

JEFFREY S. JOHNSON, CLAIMANT
EMPLOYEE

PECO FOODS, INC., RESPONDENT
EMPLOYER

OCCUSURE CLAIMS SERVICES, LLC, RESPONDENT NO. 1
INSURANCE CARRIER/TPA

DEATH & PERMANENT TOTAL RESPONDENT NO. 2
DISABILITY TRUST FUND

OPINION FILED NOVEMBER 30, 2022

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

Claimant represented by the HONORABLE LAURA BETH YORK, Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 represented by the HONORABLE JASON A. LEE, Attorney at Law, Little Rock, Arkansas.

Respondents No. 2 represented by the HONORABLE CHRISTY L. KING, Attorney at Law, Little Rock, Arkansas.

ORDER

The respondents move the Full Commission to reconsider our opinion filed October 26, 2022. The Full Commission denies the respondents' motion.

A pre-hearing order in the above-styled matter was filed on May 29, 2020. The claimant contended, among other things, that he "sustained a compensable injury in the scope and course of employment[.]" The respondents contended that the claimant "has failed to provide the

necessary evidence to establish causation.” An administrative law judge scheduled a hearing on issues which included “compensability.” The administrative law judge subsequently found that the claimant proved he sustained a compensable injury, but the Full Commission reversed the administrative law judge’s decision in an opinion filed June 14, 2021. The Arkansas Court of Appeals reversed and remanded the Full Commission’s opinion, and directed the Full Commission to “reexamine the evidence.”

See Johnson v. Peco Foods, Inc., 2022 Ark. App. 187.

The Full Commission filed a new opinion on October 26, 2022 and affirmed the administrative law judge’s decision as modified. The Full Commission found, among other things, that the claimant “proved he sustained a compensable occupational disease pursuant to Ark. Code Ann. §11-9-601(Repl. 2012).” The Full Commission awarded reasonably necessary medical treatment and temporary total disability benefits.

The respondents state that the Full Commission acted *sua sponte* and exceeded the scope of the Court of Appeals’ mandate. We disagree. The Court of Appeals did not direct the Full Commission to adjudicate the claim in accordance with a particular statute. We reiterate the claimant’s contention that he sustained “a compensable injury.” The claimant did not identify an applicable statute for adjudication. The Commission was presented with the stipulated issue of “compensability.” The Full

Commission is not precluded from reviewing issues not appealed from or not raised at the administrative law judge level if it so chooses. See *American Transportation Co. v. Payne*, 10 Ark. App. 56, 661 S.W.2d 418 (1983), citing Workers' Compensation Commission Rule 25. The Full Commission reviews cases appealed to it *de novo*, and the duty of the Commission is not to determine whether there was substantial evidence to support an administrative law judge's findings; rather, the Commission must enter its own findings in accordance with the preponderance of the evidence. *Pharmerica v. Seratt*, 103 Ark. App. 9, 285 S.W.3d 699 (2008).

The Full Commission finds that we did not exceed the mandate from the Arkansas Court of Appeals or otherwise act outside of our statutory authority. We therefore deny the respondents' motion for reconsideration.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

M. SCOTT WILLHITE, Commissioner