

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H005594

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| FRANCISCO BONILLA, EMPLOYEE | CLAIMANT |
| JUAN CARLOS CALDERON, EMPLOYER | RESPONDENT NO. 1 |
| LIBERTY MUTUAL GROUP, INSURANCE CARRIER/TPA | RESPONDENT NO. 1 |
| PICK-IT CONSTRUCTION, EMPLOYER | RESPONDENT NO. 2 |
| EMPLOYERS MUTUAL CASUALTY, INSURANCE CARRIER/TPA | RESPONDENT NO. 2 |

OPINION FILED SEPTEMBER 10, 2024

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

Claimant represented by the HONORABLE MATTHEW J. KETCHAM, Attorney at Law, Fort Smith, Arkansas.

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

Respondents No. 2 represented by the HONORABLE DAVID C. JONES, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondent No. 1 appeals an administrative law judge's opinion filed May 7, 2024. The administrative law judge entered the following findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on November 13, 2023, and contained in a Pre-hearing Order filed on November 14, 2023, are hereby accepted as fact.

2. The claimant has failed to prove by a preponderance of the evidence that he was an employee of Respondent No. 2 on July 14, 2020. The issue of whether the claimant was employee of Respondent No. 1 on July 14, 2020, is moot.
3. The claimant is able to prove by a preponderance of the evidence that he sustained compensable injuries to his lumbar spine and right shoulder on or about July 14, 2020.
4. The claimant is able to prove by a preponderance of the evidence that he is entitled to medical treatment for his compensable lumbar spine and right shoulder injuries.
5. The claimant is able to prove by a preponderance of the evidence that he is entitled to temporary total disability benefits from July 14, 2020, to October 1, 2020.
6. The claimant is able to prove by a preponderance of the evidence under A.C.A. §11-9-518(c) that he is entitled to an average weekly wage of \$800.00 per week, which computes to a temporary total disability rate of \$533.00 and a permanent partial disability rate of \$400.00.
7. The claimant is able to prove by a preponderance of the evidence that his attorney is entitled to an attorney fee in this matter.
8. Respondent No. 1 has failed to prove their lack of notice defense. Respondent No. 2's lack of notice defense is moot.
9. Respondent No. 2's statute of limitations defense is moot.
10. Regardless of whether the claimant is the employee of Respondent No. 1 or an intermediate subcontractor under A.C.A. §11-9-402(a), Respondent No. 1 is still liable for benefits due to the claimant under the Arkansas Workers' Compensation Act for his compensable injuries to his right shoulder and lumbar spine he sustained on July 14, 2020, in the fall from the roof of the home located at 1915 Cherry Hills Drive, Fayetteville, Arkansas.

After reviewing the entire record *de novo*, we find that the administrative law judge's decision is supported by a preponderance of the evidence, correctly

applies the law, and should be affirmed. The administrative law judge's findings of fact are therefore adopted by the Full Commission. See *SSI, Inc. v. Cates*, 2009 Ark. App. 763, 350 S.W.3d 421.

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 on Respondent No. 1's 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). Respondent No. 1 shall be solely liable for attorney's fees herein.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

MICHAEL R. MAYTON, Commissioner