DIVISION III

CA06-1221

May 30, 2007

NORMAN BATTEN
APPELLANT

V.

APPEAL FROM THE ARKANSAS WORKERS' COMPENSATION COMMISSION [NO. F104417]

FERRELLGAS LP ET AL.
APPELLEES

AFFIRMED

The appellant in this workers' compensation case was employed by appellee-employer as a fuel truck driver when he sustained a compensable back injury that resulted in two surgeries and a twenty-percent permanent physical impairment rating. His claim was heard by an administrative law judge who awarded appellant wage-loss benefits of seventy percent in addition to his anatomical impairment. On review, the Commission found that appellant was entitled to wage-loss benefits of only ten percent. On appeal to this court, the appellant contends that the Commission erred in so finding. We affirm.

In reviewing decisions from the Workers' Compensation Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings and affirm if they are supported by substantial evidence, *i.e.*, evidence that a reasonable person might accept as adequate to support a conclusion. *Carman v.*

Haworth, Inc., 74 Ark. App. 55, 45 S.W.3d 408 (2001). We will not reverse the Commission's decision unless we are convinced that fair-minded persons with the same facts before them could not have reached the findings arrived at by the Commission. *Wal-Mart Stores, Inc. v. Sands*, 80 Ark. App. 51, 91 S.W.3d 93 (2002). Questions of weight and credibility are within the sole province of the Commission, which is not required to believe the testimony of the claimant or of any other witness, but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Strickland v. Primex Technologies*, 82 Ark. App. 570, 120 S.W.3d 166 (2003). Once the Commission has made its decision on issues of credibility, the appellate court is bound by that decision. *Id*.

This case turns on credibility. Appellant had no documented medical restrictions, and the evidence of his current physical condition is based on his own testimony. Furthermore, appellant failed to complete a functional-capacity evaluation, stated that he did not want any kind of vocational assistance, and admitted that he made no effort to look for employment since leaving appellee's employment.

Determinations of credibility are the exclusive province of the Workers' Compensation Commission, *Patterson v. Insurance Department*, 343 Ark. 255, 33 S.W.3d 151 (2000), and a lack of motivation to return to work is a valid consideration in determining the extent of wage-loss benefits. *Douglas Tobacco Products Co. v. Gerrald*, 68 Ark. App. 304, 8 S.W.3d 39 (1999). On this record, we must affirm.

Affirmed.

BIRD and GRIFFEN, JJ., agree.