

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA08-110

DANA HICKS

APPELLANT

Opinion Delivered October 22, 2008

V.

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION [NO. F509313]

ANTIQUÉ WAREHOUSE OF
ARKANSAS

APPELLEE

AFFIRMED

JOHN MAUZY PITTMAN, Chief Judge

Appellant filed a claim for workers' compensation benefits asserting that he sustained a compensable injury while in the employ of appellee in August 2005. After a hearing, the Arkansas Workers' Compensation Commission found that appellant had in fact sustained a compensable injury and that he was entitled to temporary-total disability benefits for the period between August 19 and September 2, 2005. On appeal, appellant argues that the Commission erred in finding that he was not entitled to temporary-total disability benefits through a date yet to be determined. We affirm.

Our standard of review is well settled: In determining the sufficiency of the evidence to support the findings of the Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings, and we will affirm if those findings are supported by substantial evidence. *American Greetings Corp. v. Garey*, 61 Ark. App. 18, 963 S.W.2d 613 (1998). Substantial evidence is such relevant

evidence as a reasonable mind might accept as adequate to support a conclusion. *Id.* The determination of the credibility and weight to be given a witness's testimony is within the sole province of the Commission. *Id.* The Commission is not required to believe the testimony of the claimant or any other witness, but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *Id.*

In finding that appellant's healing period ended on September 2, 2005, the Commission relied on evidence that appellant's treating physician released him to return to work without restrictions or impairment on that date, and on testimony from two of appellee's supervisory personnel that appropriate light duty was available for appellant. These findings are supported by the record, and the testimony was expressly found to be credible. Temporary-total disability is that period within the healing period in which the employee suffers a total incapacity to earn wages, *Arkansas State Highway Department v. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981), and because the above-recited evidence is a sufficient basis for concluding that appellant was not totally incapacitated to earn wages after September 2, 2005, we affirm.

Affirmed.

BAKER and HUNT, JJ., agree.