

**ARKANSAS COURT OF APPEALS**

DIVISION III

**No.** CA09-740

ST. JOHN'S HOSPITAL and RISK  
MANAGEMENT RESOURCES  
APPELLANTS

V.

PATRICIA STREET  
APPELLEE

**Opinion Delivered** February 11, 2010

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. F800985]

REMANDED

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**JOSEPHINE LINKER HART, Judge**

The Arkansas Worker's Compensation Commission found that appellee, Patricia Street, was entitled to permanent partial disability benefits for the eleven-percent impairment rating assigned by a physician. On appeal, appellants assert that the impairment rating was not supported by objective findings. Given the absence of findings on this question in the Commission's opinion, we must remand so that the Commission may make specific findings.

On June 15, 2005, appellee suffered a compensable injury to her right foot. The administrative law judge determined that appellee was not entitled to permanent partial disability benefits for a permanent physical impairment. In denying benefits, the ALJ found that appellee "failed to prove that this compensable injury was the major cause of any degree of permanent physical impairment that could be calculated in a manner or method provided by the official rating guide and would be supported by objective and measurable physical

findings.” The Commission, however, reversed the ALJ and awarded benefits. The Commission concluded that, given the provisions of the American Medical Association *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993), and the mathematical calculations explained in its opinion, a rating of eleven-percent impairment was “entirely consistent with the *Guides*.”

On appeal, appellants argue that the impairment rating was not supported by substantial evidence, arguing particularly that it was not supported by objective findings. Permanent impairment is any permanent functional or anatomical loss remaining after the healing period has been reached. *Hickman v. Kellogg, Brown & Root*, 372 Ark. 501, 277 S.W.3d 591 (2008). Our workers’ compensation statutes provide that “[a]ny determination of the existence or extent of physical impairment shall be supported by objective and measurable physical or mental findings.” Ark. Code Ann. § 11-9-704(c)(1)(B) (Repl. 2002). Objective findings are “those findings which cannot come under the voluntary control of the patient.” Ark. Code Ann. § 11-9-102(16)(A)(i) (Supp. 2009). Further, “[w]hen determining physical or anatomical impairment, neither a physician, any other medical provider, an administrative law judge, the Workers’ Compensation Commission, nor the courts may consider complaints of pain.” Ark. Code Ann. § 11-9-102(16)(A)(ii)(a). Also, “[m]edical opinions addressing . . . permanent impairment must be stated within a reasonable degree of medical certainty.” Ark. Code Ann. § 11-9-102(16)(B). But there is no requirement that medical testimony be based solely or expressly on objective findings, only that the medical evidence of the impairment be

supported by objective findings. *Wal-Mart Assocs. Inc. v. Ealey*, 2009 Ark. App. 680; *Singleton v. City of Pine Bluff*, 97 Ark. App. 59, 244 S.W.3d 709 (2007). Further, the Commission is not limited only to medical evidence in arriving at its decision as to the amount or extent of permanent partial disability suffered by an injured employee as a result of injury. *Hickman, supra*.

Here, the Commission did not articulate any findings regarding whether or not there was evidence of objective findings. For instance, at oral argument, the parties argued over whether findings from a “pin prick” test were subjective or objective. We do not review the Commission’s decisions de novo; we instead consider the sufficiency of the evidence to support the Commission’s findings. *Sonic Drive-In v. Wade*, 36 Ark. App. 4, 816 S.W.2d 889 (1991). When the Commission does not state its specific findings on an issue, it is appropriate to remand the case for the Commission to make such findings. *Id.* Accordingly, we remand to the Commission for specific findings.

Remanded.

KINARD and HENRY, JJ., agree.