

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H304408

CHARLES ANDERSON,
EMPLOYEE

CLAIMANT

WHITE HALL SCHOOL DISTRICT,
EMPLOYER

RESPONDENT

ARKANSAS SCHOOL BOARDS ASSOCIATION
WCT, INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED JUNE 30, 2025

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

Claimant represented by the HONORABLE DANIEL E. WREN, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The respondents appeal an administrative law judge's opinion filed February 7, 2025. The administrative law judge found that the claimant proved he was permanently totally disabled. After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove he was permanently totally disabled. We find that the claimant proved he sustained wage-loss disability in the amount of 25%.

I. HISTORY

Charles Anderson, now age 58, testified that he was a high school graduate. Mr. Anderson testified that his primary field of employment had

been in the area of “maintenance.” The claimant testified on cross-examination that he had performed electrical work, plumbing, HVAC, painting, and roofing. The claimant testified that he had worked for hospitals, nursing homes, and hotels. The claimant had worked as a Maintenance Supervisor for at least two employers, including Saracen Casino.

The claimant testified that he became employed with the respondents, White Hall School District, in October 2022. The parties stipulated that the employment relationship existed at all pertinent times, including April 3, 2023. The claimant testified on direct examination:

Q. And at one point, were you working for the White Hall School District?

A. Yes.

Q. How long did you work there?

A. Six months.

Q. And what was your job title?

A. Maintenance man.

Q. We don’t have to cover everything, but can you give me a thumbnail sketch of what your duties were as a maintenance person for the White Hall School District?

A. Duties, electrical, plumbing, painting, drywall, HVAC, lifting, climbing, and just, basically, whatever came up.

Q. When you say, “Whatever came up,” basically, is it fair to say your job was to take care of the physical building and structures that belong to the White Hall School District?

A. Yes....

Q. And we don’t have to get into all the details, but tell me how you got hurt?

A. Okay....We had a problem down at the Redfield Elementary School. So [the supervisor] was discussing we need to take care of that, had some bad ceiling tiles that were falling. We didn’t want it to fall on the kids, so that was our

first duties for that day to try and make it down there, before the school even opened....

Q. And did you get there in a van?

A. Yes, I did....

Q. Where were [the ceiling tiles]?

A. In the back of the van.

Q. At some point did you try to get them out?

A. No. I got co-workers to help me to get it out, because they knew what had happened to me putting them in.

Q. Okay. So you got hurt putting those tiles into the back of the van, is that correct?

A. Yes, yes....I put them on the dolly and I rolled them to the van and by me not having no help at the time, I just laid the front part over in the van and as I was picking up to pick them up to scoot them in the van that's when the accident occurred.

The parties stipulated that the claimant "suffered an accepted compensable injury" on April 3, 2023. The claimant testified that he had not worked for any employer since the date of his compensable injury.

According to the record, the claimant treated with Trent Tappan, PA-C beginning July 12, 2023:

Mr. Anderson is a 56-year-old man who was involved in a work-related injury in April. Early April he was lifting some stuff helping to clean up from a room and picked up and twisted something and felt severe pain in his back with radiation down the left leg. Basically since that time he had a severe left radiculopathy type of sciatic pain that not really improved. He has been on some naproxen and cyclobenzaprine. The only thing that seemed to help him [was] some hydrocodone from his sister that he would take every now and then. He is miserable. This poor guy has not been able to get any relief. I am not sure he has had any specific treatment but he has not been able to return to work for 3 months....

I reviewed the x-rays of the lumbar spine which were mild degenerative changes.

I had a long visit with Mr. Anderson about his symptoms and images. This poor man is miserable. He has had a lot of severe pain in his back and leg for 3 months. He has not been able to work because of the degree of pain. He has difficulty ambulating in the exam room. I told him I would give him some more pain medication to have on hand. I prescribed keep him off work for now until he returns. I would recommend an MRI of his lumbar spine for further evaluation....He says that he has not been able to work in 3-month so he is has (sic) not been able to pay his bills or car payment in 3 months.

An MRI of the claimant's lumbar spine was taken on July 14, 2023 with the following impression:

1. At L1-L2, there is a broad disc protrusion with bilateral subarticular and left greater than right foraminal components. Effacement of the exiting left L1 nerve root from foraminal disc protrusion. Likely effacement of the traversing left L2 nerve root from subarticular disc protrusion. Recommend correlation for radiculopathy.
2. At L2-L3, there is moderate left and mild right neural foraminal stenosis.
3. Diffusely heterogenous marrow signal, nonspecific. This can be seen with anemia or marrow conversion/myeloproliferative disorders. Clinical correlation is recommended.

The claimant followed up with Trent Tappan on July 14, 2023:

Mr. Anderson returns after getting the MRI of his lumbar spine. He continues to have severe pain in his low back and left hip and groin and thigh. This began after a work-related injury a few months back. He has very severe constant pain. He has not been able to work since the injury. Unfortunately he has not had any specific treatment....
I reviewed the x-rays of the lumbar spine which reveal degenerative changes. I reviewed the MRI which reveals disc herniation at L1 to the left in the foramen with L1 nerve root impingement.

I suspect Mr. Anderson is symptomatic from a disc herniation at L1-2 on the left....I would recommend a transforaminal epidural steroid injection at L1-2 on the left. I am hopeful maybe this will calm down his inflammatory symptoms. I am also going to release him to light sedentary office work. They may not be able to accommodate this. But I would like for him to be able to get out of the house and at least return to some kind of employment for the time being. We will get this set up and I will see him back when the injection is complete.

Trent Tappan signed a "Return to Work" form on July 14, 2023:

"Activity is restricted as follows: Light sedentary office work."

Trent Tappan performed an epidural steroid injection on or about August 3, 2023. Mr. Tappan reported on August 18, 2023, "Mr. Anderson returns after getting a transforaminal epidural steroid injection at L1-2 on the left. This helped him quite a bit but only for about a week. He has recurring pain in his back radiation to the left groin and leg....He is doubtful that he is going to be able to return back to his regular occupation despite the treatment offered him and I think that is actually somewhat understandable. He wants to consider disability and I told him that is up to him and his option....He wants to try another injection which I think is fine. As for now I am going to keep him on his current work restrictions we will set up a second injection at L1-2 on the left. I told him I would plan to see him back after the injection and placement [of] maximum medical improvement and release him at that time."

The claimant followed up with Trent Tappan on November 2, 2023:

Mr. Anderson returns after getting another transforaminal epidural steroid injection at L1-2 on the left. This will did (sic) help him quite a bit. He is doing better today. He still has some pain but he is improved quite a bit I believe from where he began although he [is] still symptomatic. We had a long visit about further options. I think he [has] been rendered symptomatic from this disc herniation at L1-2 on the left. This was likely the result of his work-related injury. We discussed some further treatment options. I told Mr. Anderson that I think if he had surgery would likely need a facetectomy and a fusion. He really does not want to have surgery and I would agree with that. I do not think it would be the overall best care homerun for him. It would be an option [if he] wants to pursue that but I agree with him right now [I would leave] this alone. He is improving and I think this will continue to improve. I do not think there is any need to repeat any more injections at this point. I plan to just release him in 1 to place him at maximal medical improvement and release him to work without restrictions. But I will calculate an impairment rating based on the disc herniation and a letter to follow. I will just see him back as needed.

Trent Tappan signed a "Return to Work/School" form on November 2, 2023: "Work limitations: Released to work no restrictions." Mr. Tappan stated on November 3, 2023, "based on the American Medical Association guidelines and permanent impairment rating fourth edition page 3/113 table 75 I would award Mr. Anderson a 7% impairment of the whole person based on his disc herniation at L1-2 on the left." The parties stipulated that the claimant "has been assigned a permanent disability rating of 7% to the body as a whole."

The claimant testified on direct examination:

Q. During this period of time that you were off work, did they find you had some cancer in your stomach?

A. Yes.

Q. And were you treated for that?

A. Yes.

Q. And was your cancer doctor giving you pain medication for that?

A. Yes.

The claimant participated in a Functional Capacity Evaluation on

April 19, 2024:

The results of this evaluation indicate that a reliable effort was put forth as he passed 46 of 46 consistency measures....

It is noted that Mr. Anderson's functional abilities were limited due to his back injury as well as his overall fatigue due to his current symptoms related to his Cancer and his Cancer treatment. Throughout the evaluation, activities were stopped or limited due to both conditions and it is undetermined which condition had more affect (sic) on his functional abilities/limitations....

Mr. Anderson completed functional testing on this date with **reliable** results.

Overall, Mr. Anderson demonstrated the ability to perform work **in the SEDENTARY** classification of work as defined by the US Dept. of Labor's guidelines over the course of a normal 8 hour workday with limitations as noted above....

Mr. Anderson reports that he was injured on 403-23 while picking up a bundle of ceiling tiles and he felt an immediate pain in his low back. He reports that was in the morning and by lunch he had to go to an Urgent Care Medical Clinic due to his pain, and he reports they gave him a steroid injection and pain medication. He reports no one would give him an MRI because the doctors kept saying he didn't have insurance. He reports he then got an attorney involved and he went from April to June and he eventually had an MRI in June of 2023. He reports he was then sent to OrthoArkansas in Little Rock, AR and they did an MRI and he reports that is when they discovered his back was "Messed up." He reports he was told he needed surgery to do a cage or fusion, however he reports he did not want to have surgery. He reports that his treatment then consisted of 3-4 injections in his low back. He reports he has been off work since his injury.

Mr. Anderson reports around 2 months ago, he went to the hospital with stomach and chest pain and they discovered he had lymphoma. He reports the Doctors started him on treatment pretty quickly and he reports due to his cancer treatment he now has a lot of fatigue, and he reports he feels good some days and some days he doesn't. He reports his PCP wants him walking with a cane due to his decreased balance and his fatigue related to his cancer treatment.

Mr. Anderson describes his current activity level as, "I can't do any housework or yard work or anything like that." When asked if his back or the cancer treatment was his primary limiting factor with everyday activities, he stated, "They are kind of blending in together and both give me problems." He reports he has a lot of pain in his back that is limiting him, but he also has a lot of fatigue from his cancer treatment. He reports that he has the most difficulty performing, "Standing too long, or anything to do with bending or lifting." He reports he lays down most of the day at home.

Mr. Anderson describes his pain as being in his back and down both legs. He also reports pain in his belly which he reports is due to his cancer....

Cecilia A. Brunson, a Vocational Rehabilitation Consultant, provided a Vocational Rehabilitation Initial Evaluation on August 25, 2024:

At the request of Arkansas School Boards Association, I met Mr. Charles Anderson to complete a vocational rehabilitation assessment, preliminary to exploring his return-to-work options based on his work-related injury. Prior to the beginning of the meeting with Mr. Anderson, I explained my role as a vocational rehabilitation counselor.

Mr. Anderson sustained a work-related injury on 04/03/23. As of this date, he has completed his medical treatments and has been released to return to the workforce by his physician. Mr. Anderson will not be able to return to his job of injury, but in my opinion should be able to return to the workforce in the future to a different job that is within his work restrictions....

Mr. Anderson stated he is not interested in returning to work at this time. He reported he can barely move around the house most days due to pain. Mr. Anderson has computer skills and is confident in his ability to navigate computers....

Based on Mr. Anderson's transferable skills, functional ability, records reviewed of his injury and past work history, he is capable of working within the sedentary category of physical work demands. Recommendations for vocational rehabilitation services will include drafting a resume, completing a follow-up meeting to provide interview skills training and preparation, assist him with any online job application for which he needs assistance, and begin completing regular job market research in his local area. The job market research will identify current job openings for which he can apply with the eventual goal of returning to the workforce to a new occupation.

Cecilia Brunson also provided a Job Market Research Report on August 25, 2024:

At the request of the Arkansas School Boards Association, I have completed job market research to identify current job openings in Mr. Charles Anderson's local labor market area. Records reflect he has a Pine Bluff, Arkansas, address. Records reviewed to date include the following: Functional Capacity Evaluation (FCE), workers' compensation first report of injury records, and OrthoArkansas records. In summary records reflect Mr. Anderson has a 12th grade education, [a] reliable FCE that placed him capable of working in the Sedentary category of physical work demands, and a work history in skilled occupations as a Maintenance Repairer and Maintenance Supervisor.

Ms. Brunson identified job openings such as Local Office Administrative Assistant, Extra Help Administrative Specialist II, Service Representative, and Emergency Dispatcher. The record indicates that the claimant did not follow up on any of the job leads provided by the vocational counselor. The claimant testified that he completed his cancer treatment on or about August 27, 2024.

A pre-hearing order was filed on August 27, 2024. The claimant contended, "The Claimant is not able to return to his current employment and therefore is entitled to wage loss."

The respondents contended, "Respondents contend that all appropriate benefits have been and are continuing to be paid with regard to this matter."

The parties agreed to litigate the following issues:

1. Whether the claimant is entitled to wage loss disability benefits.
2. Whether the claimant is entitled to an attorney's fee. Other issues are reserved.

Cecilia A. Brunson provided another Job Market Research Report on September 18, 2024. Ms. Brunson identified job openings such as Local Office Administrative Assistant, Administrative Specialist I, Administrative Assistant, and Patient Care Coordinator.

A hearing was held on November 14, 2024. At that time, the claimant contended that he was entitled to permanent total disability benefits or alternatively wage-loss disability. The claimant testified on direct examination:

Q. Your cancer treatment, did that cause some fatigue, sleepiness?

A. Yes.

Q. All right. But has that stopped now that your treatment has stopped, that fatigue from the medicine?

A. Somewhat.

Q. Okay. You still have some?

A. Yes.

Q. Describe the loss of fatigue that you have at this point?

A. Still having a little numbness in my left thigh. I have to walk with a rollator if I can get out, because my legs will go numb on me.

Q. Now, your legs going numb, was that a problem – pain and numbness in your legs, was that a problem that you had before the cancer?

A. Yes....

Q. But was [the rollator] ordered by Dr. Tappan or by the cancer doctor?

A. By the cancer doctor.

The claimant testified on cross-examination that he was receiving Social Security Disability benefits.

The respondents' attorney examined Cecilia Brunson:

Q. In your expert opinion, do you think Mr. Anderson should be able to return to the workforce to a different job within his restrictions?

A. Yes, to a different job....

Q. You reviewed his functional capacity evaluation, is that right?

A. Yes.

Q. And you're aware that that assigned sedentary restrictions?

A. Correct.

Q. What would some of those restrictions be?

A. Sitting six hours out of a (sic) eight-hour work day....

Q. What were your recommendations after reviewing the records and talking with Mr. Anderson?

A. Sedentary jobs that involved a high school diploma, little to no work experience with on-the-job training and working with the public. Mr. Anderson was just very open and just a very friendly person, easy to talk to and so I just think that was a very important skill that he possesses that would be very great with dealing with the public or just talking to people period.

Q. Your report on the bottom of page nine and going on to page 10 indicates that you had some rehabilitation services

that you had thought of for his case. Can you tell me about those?

A. Yes, I am offering to help him with a resume, interviewing skills before an interview, even calling the employers to find out if they would be hiring, how many they would be hiring and, you know, advocate for him, basically. Let them know that I have someone that would be great for a position and I would be willing to help fill out the applications for him and even assist with going to an interview, if that was necessary as well.

Q. Did he ever contact you to pursue those options?

A. No, ma'am.

An administrative law judge filed an opinion on February 7, 2025.

The administrative law judge found that the claimant proved he was entitled to permanent total disability benefits. The respondents appeal to the Full Commission.

II. ADJUDICATION

The wage-loss factor is the extent to which a compensable injury has affected the claimant's ability to earn a livelihood. *Grimes v. North Am.*

Foundry, 316 Ark. 395, 872 S.W.2d 59 (Ark. 1994). Ark. Code Ann. §11-9-522(b)(Repl. 2012) provides, in pertinent part:

- (1) In considering claims for permanent partial disability benefits in excess of the employee's percentage of permanent physical impairment, the Workers' Compensation Commission may take into account, in addition to the percentage of permanent physical impairment, such factors as the employee's age, education, work experience, and other matters reasonably expected to affect his or her future earning capacity.

Ark. Code Ann. §11-9-519(e)(Repl. 2012) provides, in pertinent part:

- (1) "Permanent total disability" means inability, because of compensable injury or occupational disease, to earn any meaningful wages in the same or other employment.
- (2) The burden of proof shall be on the employee to prove inability to earn any meaningful wage in the same or other employment.

An administrative law judge found in the present matter, "3. The claimant has proven by a preponderance of the evidence that he is entitled to permanent and total disability benefits." The Full Commission does not affirm this finding.

The claimant is only age 58 and is a high school graduate. The record indicates that the claimant's areas of employment have primarily been involved in "maintenance," that is, electrical work, plumbing, HVAC, and related areas. The claimant testified that he had worked in this capacity for hospitals, nursing homes, hotels, and at least one casino, where the claimant was a supervisory employee.

The parties stipulated that the claimant was employed with the respondents, White Hall School District, on April 3, 2023. The claimant worked for the respondents in the area of maintenance, described by the claimant as "electrical, plumbing, painting, drywall, HVAC, lifting, climbing, and just, basically, whatever came up." The parties stipulated that the

claimant sustained a compensable injury on April 3, 2023. The record shows that the claimant injured his back while lifting a load of tiles.

The claimant has not returned to work for any employer since the stipulated April 3, 2023 compensable injury. The claimant treated conservatively with Trent Tappan, PA-C beginning July 12, 2023. Mr. Tappan released the claimant to “light sedentary office work” on July 14, 2023. The claimant did not attempt to return to sedentary office work. Trent Tappan opined in August 2023 that the claimant was physically unable to return to his former position as a Maintenance employee for the respondents. However, Mr. Tappan returned the claimant to work with “no restrictions” on November 2, 2023. Mr. Tappan assigned the claimant a 7% whole-person impairment rating on November 3, 2023, which rating the respondents have apparently accepted as compensable. The claimant testified that he was subsequently diagnosed with lymphoma, for which he had completed treatment. The claimant testified that he suffered from chronic fatigue related to his treatment for lymphoma.

The claimant gave a reliable effort during a Functional Capacity Evaluation carried out on April 19, 2024. The evaluators released the claimant to “Sedentary” work. Cecilia A. Brunson provided vocational assistance to the claimant beginning August 25, 2024. Cecilia Brunson opined, “Mr. Anderson will not be able to return to his job of injury, but in my

opinion should be able to return to the workforce in the future to a different job that is within his work restrictions.” However, Ms. Brunson noted that the claimant was “not interested in returning to work at this time.”

The evidence does not demonstrate that the claimant is unable “to earn any meaningful wage in the same or other employment” as is required to prove permanent total disability in accordance with Ark. Code Ann. §11-9-519(e)(Repl. 2012). The treating physician’s assistant and the Functional Capacity evaluators both opined that the claimant could perform at least sedentary work. Cecilia Brunson attempted to provide appropriate vocational rehabilitation, but the record shows that the claimant was not interesting in returning to even light-duty work. The claimant’s lack of interest in returning to appropriate gainful employment impedes the Commission’s full assessment of the claimant’s wage-loss disability. *City of Fayetteville v. Guess*, 10 Ark. App. 313, 663 S.W.2d 946 (1984). We note that the claimant is now drawing Social Security Disability benefits and is plainly not interested in returning to work within his permanent restrictions. The claimant testified at hearing that he had not applied for any jobs since the compensable injury.

However, the evidence also demonstrates that, as a result of the April 3, 2023 compensable injury, the claimant is physically unable to return to his former position as a Maintenance employee for the respondents. In

considering the claimant's relatively young age of 58, his high school education, the claimant's work history, the 7% whole-body impairment rating, and the claimant's demonstrated lack of motivation in returning to appropriate gainful employment, the Full Commission finds that the claimant proved he sustained wage-loss disability in the amount of 25%.

After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove he was permanently totally disabled in accordance with Ark. Code Ann. §11-9-519(e)(Repl. 2012). The Full Commission finds that the claimant proved he sustained wage-loss disability in the amount of 25%. The claimant proved that the April 3, 2023 compensable injury was the major cause of his 7% anatomical impairment and 25% wage-loss disability in accordance with Ark. Code Ann. §11-9-102(F)(ii)(a)(Repl. 2012). 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 in part on appeal, 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).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I must respectfully dissent from the majority's opinion finding the claimant proved he sustained wage-loss disability in the amount of 25%.

The claimant suffered an admittedly compensable injury to his lower back on April 3, 2023, and was ultimately released with a seven percent (7%) permanent impairment rating in November 2023.

After undergoing a Functional Capacity Evaluation (FCE), it was determined the claimant was unable to return to his job with the respondent employer.

The carrier provided the claimant with vocational rehabilitation which identified multiple jobs within the claimant's restrictions. To date the claimant has applied for none.

"Permanent total disability' means inability, because of compensable injury or occupational disease, to earn any meaningful wages in the same or other employment." Ark. Code Ann. § 11-9-519(e)(1).

The employee bears the burden of proving the inability to earn any meaningful wage in the same or other employment. Ark. Code Ann. § 11-9-519(e)(2). “In the absence of clear and convincing proof to the contrary, the loss of both hands, both arms, both legs, both eyes, or of any two (2) thereof shall constitute permanent total disability;” however, “[i]n all other cases, permanent total disability shall be determined in accordance with the facts.” Ark. Code Ann. § 11-9-519(b)-(c).

“Permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment.” Ark. Code Ann. § 11-9-102(4)(F)(ii)(a).

Arkansas Code Annotated § 11-9-102(4)(D) provides that a compensable injury must be established by medical evidence supported by "objective findings." An objective finding is defined as a finding which cannot come under the voluntary control of the claimant. Ark. Code Ann. § 11-9-102(16)(A)(i).

The same factors that are considered when analyzing wage loss disability claims are usually considered when analyzing permanent and total disability claims. *Maulding v. Price's Utility Contractors*, 2009 Ark. App. 776, 358 S.W.3d 915 (2009). Those factors include the claimant's age, education, work experience, motivation, post-injury income, credibility, demeanor, and any other matters reasonably expected to affect her future

earning capacity. Ark. Code Ann. § 11-9-522(b)(1); *St. Vincent Health Serv. v. Bishop*, 2010 Ark. App. 141 (2010).

Permanent total disability, as defined by our legislature, makes no provision for whether employment is available in any particular geographical area but instead, provides that a claimant must prove the inability to earn any meaningful wages because of the compensable injury. See Ark. Code Ann. § 11-9-519(e)(1); *Birtcher v. Mena Water Utils.*, 2017 Ark. App. 210, 518 S.W.3d 707 (2017).

In the present case, the claimant has a high school education and drywall certification. He has skills in “a little electrical, a little plumbing, a little HVAC, painting, roofing -- basically, that’s normally it, you know, anything that concerned a building that have to be done.”

Since graduating high school in 1984, the claimant has worked for various hospitals, nursing homes, and hotels among other institutions. Further, the claimant has experience in sedentary supervisory roles, including work with a company called SAJ, where he supervised approximately twenty people. This was not a physical job. He would later serve as a maintenance supervisor for Saracen Casino for two and a half years, supervising twelve people before transferring to a supervisory job with the Casino’s food and beverage department overseeing bartenders, waitresses, and bar backs.

The claimant had only been working for the respondent employer for six months prior to his April 3, 2023 injury. On November 2, 2023, the claimant was released to return to work at full duty with no restrictions and was assigned a seven percent (7%) whole body impairment rating. A later Functional Capacity Evaluation assigned the claimant sedentary duties.

During the treatment for his compensable injury, the claimant received a stomach cancer diagnosis that has led to his need for pain management, a hydrocodone prescription, and a prescription for a cane.

The claimant has not applied for any jobs since his 2023 injury and is currently receiving \$1,433.00 in monthly social security disability benefits.

The claimant has been interviewed and evaluated by vocational expert Cecilia Brunson. At the hearing, Ms. Brunson testified that it is her professional opinion that the claimant is able to return to the workforce. Ms. Brunson's report reflects that the claimant's work history allowed him to acquire the following skills:

- Supervisory and leadership skills
- Management and personnel resources
- Active listening
- Monitoring
- Coordination
- Critical thinking
- Speaking
- Reading comprehension
- Complex problem solving
- Operations monitoring

- Social perceptiveness
- Instructing
- Negotiation
- Persuasion
- Writing
- Judgement [sic] and decision making
- Systems evaluation
- Troubleshooting
- Time management

Ms. Brunson testified she had offered “to help with a resume, interviewing skills before an interview, even calling the employers to find out if they would be hiring, how many they would be hiring and, you know, advocate for him basically. Let them know that I have someone that would be great for a position, and I would be willing to help fill out the applications for him and even assist with going on an interview if that was necessary as well.” The claimant has never contacted Ms. Brunson regarding those offers.

Ms. Brunson has identified eighteen (18) current job openings that fall within the claimant’s FCE restrictions, education, and work history. She believes the claimant can do any of these jobs.

The claimant clearly has no intention to return to work. Eighteen (18) jobs have been found for him with his restrictions, and Ms. Brunson has offered extensive assistance in applying for and interviewing for these jobs. The claimant has applied for none. These issues are clearly compounded by the claimant’s cancer treatment and his other non-work related medical

issues rather than any permanent impairment resulting from his compensable injury for which the respondents are not responsible. The claimant should not be rewarded for his absolute refusal to even try to return to the workforce. As a result, he is not entitled to any wage loss over and above his anatomical impairment rating.

Accordingly, for the reasons set forth above, I must dissent.

MICHAEL R. MAYTON, Commissioner