BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO.: H406236

ROY BAKER, JR., EMPLOYEE	CLAIMANT
R & R SHEET METAL HEATING & AIR, EMPLOYER	RESPONDENT
UNION STANDARD INSURANCE PROVIDENCE, CARRIER/TPA	RESPONDENT

OPINION FILED DECEMBER 5, 2025

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant represented by the Honorable Daniel Wren, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the Honorable Karen H. McKinney, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On September 17, 2025, the above-captioned claim came on for a hearing in Little Rock, Arkansas. Previously, a pre-hearing telephone conference was held in this matter on July 9, 2025. A Pre-hearing Order was entered that same day pursuant to the telephone conference. Said order was admitted into evidence along with the parties' pre-hearing information filings without objection from the attorneys as Commission's Exhibit 1.

Stipulations

During the pre-hearing telephone conference, and/or at the hearing, the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.

2. The employee-employer-insurance carrier relationship among the parties on or about July 29, 2024, the Claimant sustained a compensable injury to his cervical spine, for which the Claimant has received all appropriate benefits to this point with the exception of those being litigated.

3. The Claimant earned an average weekly wage of $1,080.00 which entitles the Claimant to a temporary total disability benefits rate of $720.00 per week and a permanent partial disability rate of $540.00 per week.

4. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

5. This claim for additional benefits has been controverted by the Respondents.

Issues

By agreement of the parties the issues to be litigated at the hearing are as follows:

1. Whether the Claimant is permanently and totally disabled due to his admittedly compensable neck injury of July 29, 2024.

2. Whether the Claimant's attorney is entitled to a controverted attorney's fee on any indemnity benefits awarded pursuant to the hearing.

Contentions

The Claimant's and the Respondents' contentions are listed below:

Claimant:

The Claimant suffered an admittedly compensable injury to his neck on August 1, 2024, when he fell from a ladder and landed on his shoulder. He was noted to have muscle spasms in the neck. An MRI at Millennium MRI revealed right paracentral and foraminal disc herniations at C6/C7 and at C5/C6.

The Claimant underwent physical therapy as well as epidural steroid injections in his cervical spine. The physical therapy actually increased the Claimant's pain. The Claimant had no significant relief from the epidural steroid injections.

The Claimant attempted to return to work on multiple occasions. On each occasion, the Claimant had to stop working within a few days due to severe pain.

The Claimant had a functional capacity exam performed on February 28, 2025, which was completed with 50 out of 50 consistency measures.

The Claimant cannot return to any employment due to his physical limitations, and due to ongoing significant and severe pain.

Respondents:

The Respondents contend that the Claimant sustained a compensable cervical injury supported only by objective findings of muscle spasms for which he has received all benefits to which he is entitled. The Claimant's treating physician, Dr. Jared Seale assessed the Claimant with a zero (0%) percent permanent rating. Dr. Seale described the Claimant's CT and MRI findings to reveal no "obvious fractures or acute injuries. Patient has what's probable autofusion of the posterior disc and facet joint on the left at C3/4" among other clearly degenerative findings. Dr. Seale ordered an FCE that found the Claimant capable of working in a Medium Duty Capacity. Dr. Seale recommended that the Claimant return to work per the FCE restrictions. Dr. Seale placed the Claimant at MMI as of February 20, 2025.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including the medical reports, the documentary evidence, and other matters properly before the Commission, and after having had an opportunity to listen to the Claimant's testimony and observe his demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The proposed stipulations set forth above are reasonable and hereby accepted.

3. The Claimant failed to prove by a preponderance of the credible evidence that his compensable neck injury of July 29, 2024, rendered him permanently and totally disabled from earning meaningful wages in other employment.

4. All issues not litigated herein or addressed in this Opinion are reserved under the Arkansas Workers' Compensation Act.

Summary of Evidence

The sole witness was the Claimant, Mr. Roy Baker, Jr.

The record consists of the hearing transcript of September 17, 2025, and the exhibits held therein. In addition to the Pre-hearing Order discussed above, the exhibits admitted into evidence in this case were Claimant's Exhibit 1consisting of the Claimant's medical records of 107 pages; Claimant's Exhibit 2 consisting of non-medical records encompassing 27 pages.

Testimony

The Claimant, age 62, worked for the respondent-employer in July of 2024. He testified that he fell off a ladder while performing HVAC work for R & R Metal and Air. The Claimant had worked at R&R for nine years. His employment duties included installing, maintaining, and repairing heating and air conditioning units for residential customers, and pretty much everything except for the actual duct work. The Claimant holds a valid residential HVAC license. According to the Claimant, he has performed HVAC work for 44 years. Prior to that, the Claimant and his dad worked together in his dad's business. The Claimant's dad owned an appliance repair business, which served residential customers, repairing, maintaining, and servicing household appliances, like refrigerators, washers, and dryers. The Claimant denied that he obtained his GED. Although the Claimant does not hold any other licenses or certificates, he can run equipment which requires a state license to operate. While working for R&R, the Claimant performed only

residential appliance repair work. Physically, the Claimant had to be able to lift furnaces into attics, set outside units, which required that he be able to roll around and do a lot of physical activities. He has always had a helper to assist him with lifting the furnaces. However, the Claimant testified that he used a mechanical lift to get the furnaces upstairs.

According to the Claimant, the average residential furnace weighs approximately 200 pounds. The Claimant testified that he had to put a coil in the furnace and then the plenums on each end of it which the ductwork hooks onto. He confirmed that he had to perform work while lying on his back. The Claimant admitted that he had to constantly turn his head while working. He denied that he ever had any neck pain before his fall at work. However, the Claimant admitted that he did not have shoulder pain prior to his work-related fall. He testified that after the fall, he mainly had pain in his shoulder and joint. The Claimant confirmed that prior to his injury, he had aches and pain throughout the day from lifting, twisting, and bending while performing his employment duties. According to the Claimant, once he got home, he would take Ibuprofen or something and use his electric blanket or apply ice packs to help relieve his symptoms. The Claimant confirmed that he previously missed work occasionally due to physical problems. His absences totaled a couple of days every four or five months.

He explained the mechanism of his fall. (Tr. 18-19) The Claimant essentially testified that he was on a 10-foot ladder, and probably about five feet up from his feet when he fell. He stated that when he hit the floor, he fell on his right shoulder. However, the Claimant insisted that he hit only his right shoulder down to about his elbow because he was almost upside down, and then the rest of his body came down. The Claimant testified that he called his boss and sought treatment from Baptist Urgent Care, in Benton at the Baptist Family Clinic, under the care of Dr. Jeffrey S. Mayfield. He also treated with Dr. Jared Seale. Per the Claimant, he underwent diagnostic

imaging, and sessions of physical therapy. The Claimant denied that the physical therapy helped to relieve his pain. During the day, he insisted that his pain occurs four or five times a day, as shooting pain through his head. Currently, the Claimant takes Oxycodone 7.5 for his pain. The Claimant testified he relieves his pain by kneeling or sitting down, holding his neck, and hoping it goes away. His pain ranges from a five to 10 on a scale of 10.

As of the date of the hearing, the Claimant was living at a motel. The Claimant confirmed that he tried to work after his injury. However, he testified that the longest amount of time he was able to work was three consecutive days. Per the Claimant, he was unable to work due to the pain. The Claimant testified that he had to sell his car, and now he drives a borrowed truck that he uses for transportation. He testified that he has difficulties driving because he has problems with turning his head to look at traffic at any point. Also, the Claimant insisted that he has problems with shifting his body to look for oncoming traffic.

About the functional capacity evaluation/FCE, the Claimant confirmed undergoing the evaluation and that he put forth a 100% on it. However, the Claimant testified that the day after the test, his pain level worsened. The Claimant agreed that Dr. Jeffery Mayfield is his primary care physician. Dr. Mayfield prescribes his pain medication and a muscle relaxer for his symptoms. Although the Claimant had Medicaid, it has been canceled. He confirmed that he applied for Social Security Disability benefits, and his claim has been approved, but he has not received a check yet. His benefits will be about $1,790.00 a month. The Claimant admitted that he is willing to return to other kinds of work if he is unable to do HVAC work.

He agreed that his present circumstances have taken an emotional toll on him. According to the Claimant, he takes walks, reads and watches TV during the day. He has tried to ride with a friend of his that has a heat and air company.

On cross-examination, the Claimant admitted that Dr. Mayfield has been his primary care physician for a number of years. He is very comfortable with Dr Mayfield and has even had Telemedicine/Telehealth visits with him. The Claimant denied that he was previously on Tramadol. Instead, the Claimant claimed that he was on Lorazepam due to anxiety. He claimed that he did not know he has bone spurs but does not have any reason to dispute what the medical records show. The Claimant agreed that he has continued to treat under the care of Dr. Mayfield via Telemedicine appointments since his injury. He had at least 11 Telehealth appointments with Dr. Mayfield between the date after his injury and through the middle of November, which was for a four-month period.

He confirmed that he underwent an MRI of the brain. It revealed a benign brain tumor. The Claimant admitted to treating with Dr. Vargas, who is affiliated with OrthoArkansas. Dr. Vargas ordered physical therapy. The Claimant underwent four sessions of therapy and then had his first injection in his cervical spine. Dr. Vargas referred the Claimant to Dr. Seale. The Claimant agreed that he saw Dr. Seale on February 3, 2025, and by that time he had already been through physical therapy and some injections. He further agreed that Dr. Seale explained to him the findings shown on the MRI of his neck. Dr. Seale ordered a CT scan of the Claimant's cervical spine. He admitted that Dr. Seale assured him that there was no concern about further damage from the pain, and that the restrictions could be removed if his condition improved. The Claimant agreed that Dr. Seale has released him to return to work in accordance with his functional capacity evaluation restrictions, which showed that the Claimant was physically able to perform work in a medium duty capacity.

He agreed that his job was a heavy-duty type of job. The Claimant testified that his boss at R & R said he could return to work there. However, he admitted that he took himself off work.

The Claimant agreed that he worked for the respondent-employer for nine years. The Claimant earned $1,000.00 a week and worked 40 hours a week. He agreed that he tried to go back to work about a month after his injury. Per the Claimant, he tried at least three times to return to his job. However, each time, the Claimant worked restricted hours due to his pain. He confirmed that he has not worked since November. The Claimant admitted that he received temporary total disability benefits until Dr. Seale released him to be at maximum medical improvement. He stopped receiving checks from workers' comp in February 2025. The Claimant admitted that he did some odd jobs in July of 2025, for which he was paid for his services.

Since November 4, 2024, the Claimant testified that he has done some work in the form of cleaning some air conditioners. Specifically, the Claimant asked to explain this process:

> A. When you get a job, you've got to be able to show up at a certain time work until a certain time. They don't work with your hours. You work with theirs. That's what hinders everything. I can't say I'm gonna be at work a certain five days a week from 8:00 to 5:00. I can't tell 'em that because I'd be lyin' and it won't happen.
>
> Q. *But you can work.*
>
> A. Yeah, I can work hopefully Monday maybe, or maybe Wednesday, but they don't let you choose your hours, is what I'm saying.
>
> Q. *If you could have a job where you could choose your hours, you could choose your hours, you could do that though, wouldn't you?*
>
> A. *Yeah, I want my money*.

On redirect examination, the Claimant testified that he does some work for Alan Levart, washing the outside of air conditioners. The Claimant testified that Levart is a one-man heat and air company. According to the Claimant, he trained Levart about 35 years ago. However, he denied that Levart expects him to do a full day's work. According to the Claimant, it takes him about 15 minutes to wash the outside coils of an air conditioner. He confirmed that he told Dr.

Seale he had tried to return to work on three separate occasions and found it to be a disaster due to pain.

The Claimant testified on redirect-examination:

Q. With accommodations you said you could work.

A. Yes. I don't know what, but yes. I mean –

Q. All right.

A. - - I'm not dead yet.

Medical Evidence

On August 1, 2024, the Claimant sought medical treatment from the Benton Family Clinic, under the care of Dr. Jeffery S. Mayfield. The Claimant presented for evaluation of complaints of neck and shoulder pain. He reported a history of having fallen from a 10-foot ladder, landing on his shoulder, without any impact on his neck. Immediately after the fall, he was unable to move his arm but regained some mobility after driving half a mile. He reported that it was at that point, then that he began to experience severe neck pain. The Claimant's pain was localized in the middle of his shoulder blades and extended down to his buttocks. He described his pain as being sharp, radiating from his neck and encircling his body. The Claimant reported that he sought emergency treatment and had imaging studies taken at that facility which revealed a slipped disc in his neck, for which he was recommended to consult with an orthopedic specialist but was unable to secure an appointment without a referral. He reported that he tried to work but the pain was unbearable. Dr. Mayfield assessed the Claimant with *a slightly slipped disc*, for which he prescribed a medication regimen. X-rays revealed an impression of: "1.…No vertebral body height loss is appreciated. 2. T1 spinous process tip avulsion, likely chronic. 3. Moderate to advanced disc

degenerative changes, greatest at C5-C6 and C6-C7." Dr. Mayfield prescribed oxycodone and ordered an MRI. At that point, he also continued the Claimant's off work status.

On September 11, 2024, the Claimant underwent an MRI of the cervical spine, which revealed extensive degenerative disc disease, which included revealed right paracentral and foraminal disc herniations at C6/C7 and at C5/C6.

> 1. Broad based posterior, right paracentral and foraminal herniation of C6-7 disc, causing mild-to-moderate narrowing of the central canal and neural foramina, bilaterally. The herniation measures approximately 6 mm in size. Mild facetal and and uncovertebral arthropathy is detected at this level adding to neural foraminal stenosis.
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> 2. Broad based posterior, left paracentral and foraminal herniation of' C5-6 disc, causing mild narrowing of the central canal and neural foramina, bilaterally (right more than left). The herniation measures approximately 5 mm in size. Mild facetal and uncovertebral arthropathy is detected at this level adding to neural foraminal stenosis.
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> 3. Posterocentral bulge of C3-4 disc, causing mild narrowing of the central canal and neural foramina, bilaterally. The bulge measures approximately 3 mm in size. Mild facetal arthropathy is detected at this level.
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> 4. Posterior right paracentral and foraminal bulge of C4-5 disc, causing mild narrowing of the central canal and left neural foramen. The bulge measures approximately 3 mm in size. Mild-to-moderate facetal arthropathy is seen at-this level adding to neural foraminal stenosis.
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> 5. Posterior and right paracentral bulge of C2-3 disc, without any significant central canal or neural foraminal narrowing. The bulge measures approximately 2 mm in size. Mild facetal arthropathy is detected at this level.
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> 6. Diffuse bulge of C7-T1 disc, without any significant central canal or neural foraminal narrowing. The bulge measures approximately 2 mm in size. Mild facetal arthropathy is detected at this level.
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> 7. Mild vertebral offsets at few levels.
>
> 8. Marrow appears mildly heterogeneous in signal intensity. This can be due to combination of degenerative changes, residual red marrow, fatty conversion, work compensation injury. Please correlate clinically.

> 9. Subtle altered marrow signal intensity is seen in relation to the posterior arch elements of C7 and T1 vertebrae, bilaterally. This can represent mid degenerative or traumatic edema. Please correlate clinically.
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> 10. There is suggestion. of presence of focal lesion in the sellar-suprasellar location as described. This can represent pituitary macroadenoma. Please correlate clinically. Further evaluation with dedicated imaging of the sella and suprasellar region may be done as clinically indicated.
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> 11. Degenerative changes are seen in the atlantoaxial joint.

On November 24, 2024, the Claimant sought medical treatment from Dr. Jared Seale. At that time, the Claimant reported problems included degeneration of cervical intervertebral, cervical disorder with radiculopathy and impingement syndrome of his right shoulder region. Dr. Seale assessed the Claimant with: "1. Suboccipital pain, work related fall, question etiology. 2. Degenerative disc disease of the cervical spine worse at C-6-7." He opined that the Claimant had suboccipital pain and spasms, which are challenging to treatment and have not responded to initial medication. According to this clinic note, Dr. Seale specifically stated that the Claimant has degenerative disc disease of the cervical spine, with significant foraminal narrowing and facet atrophy contributing to his persistent neck pain. At that time, Dr. Seale recommended that the Claimant continue physical therapy and work with restrictions of no bending, twisting, or lifting over 20 pounds. Dr. Seale opined that the MRI did not show any objective findings of injury. However, he correlated the Claimant's current symptoms and need for treatment to his work injury.

On December 3, 2024, the Claimant presented to the office of Dr. Gary Frankowski due to continued persistent upper cervical neck pain, along with posterior occipital headache symptoms. Clinically the Claimant presented as occipital neuralgia bilaterally. Dr. Frankowski performed occipital nerve blocks bilaterally.

A CT without contrast of the Claimant's cervical spine was performed on December 18, 2024, with an impression of:

1. No acute abnormality in the cervical spine.
2. Moderate to advanced multilevel spondylosis of the cervical spine and reversal of the normal cervical lordosis at the C4-C7 levels.
3. Moderate to severe right foraminal stenosis at C6-C7.
4. Moderate left foraminal stenosis at C3-C4.
5. Moderate right foraminal stenosis at C4-C5.
6. Mild canal stenosis at C6-C7.

The Claimant presented to Dr. Frankowski again on January 6, 2025, with a chief complaint of neck pain. At that time, his assessment of the Claimant was cervical spondylosis. Dr. Frankowski performed bilaterally C2-C3, C3-C4, and C4-C5 Therapeutic Facet Joint Injection under fluoroscopy end sedation.

On February 3, 2025, the Claimant returned to Dr. Seale due to problems including "cervical spondylosis, displacement of cervical intervertebral, degeneration of cervical intervertebral disc, cervical disc disorder with radiculopathy, cervical radiculopathy, and impingement syndrome of right shoulder region." At that time, the Claimant reported that the severity of his pain was nine, and the quality of symptoms sharp, shooting and stabbing. *Dr. Seale assessed the Claimant with a 0 % impairment rating because there were no objective findings of an injury.* The Claimant told Dr. Seale he was unable to work due to pain. Therefore, Dr. Seale recommended that he undergo a functional capacity evaluation/FCE.

The Claimant underwent an FCE on February 28, 2025, with 50 out of 50 consistency measures within reliable expected limits. Per this medical report, the Claimant's evaluation was performed at the OrthoArkansas Physical Therapy Clinic in Little Rock, Arkansas. He demonstrated the ability to perform an occasional bi-manual lift and carry up to 40 pounds. Overall, the Claimant proved the ability to perform work in the **MEDIUM** classification of work as defined by the U.S. Dept. of Labor's guidelines over the course of a normal 8-hour work- day within the physical limitations noted above.

On March 26, 2025, Dr. Seale wrote the following letter finding the Claimant's FCE to be valid. As a result, Dr. Seale returned the Claimant to medium classification of work. Dr. Seale declared that the date of maximum medical improvement for the Claimant was February 20, 2025, on the same date as limitations were defined. He noted the Claimant's functional capacity exam is directly related to his symptoms. Dr. Seale stated that the Claimant does not have any acute findings. He also stated that at least 51% of the Claimant's current symptoms and physical restrictions are related to the Claimant's work injury.

Deposition of Dr. Seale

On examination by the Claimant's attorney, Dr. Seale confirmed he saw the Claimant for office visits and performed evaluations of his cervical spine. He admitted that he reviewed the actual MRI imaging of the Claimant's neck. Dr. Seale explained that the Claimant was complaining of pain in the suboccipital area, basically the back of his head, below the skull, in the upper cervical spine. According to Dr. Seale, the Claimant told him he sustained a fall off a ladder while at work. At that point, the Claimant had already undergone some physical therapy and epidural steroid injections into his cervical spine when he saw him. He confirmed that he correlated the Claimant's pain to his work-related injury although he had no resulting objective findings. *Dr. Seale testified that the Claimant's x-rays, MRI, and CT scan had no objective findings of an injury such as a fracture, disc herniation, or acute findings.* Instead, *Dr. Seale* testified that there were only degenerative findings. Dr. Seale opined that a new injury from the Claimant's fall could not be discernable upon multiple imaging.

Under further questioning, Dr. Seale was asked to explain the findings revealed on the CT scan performed on December 18, 2024, which showed there was a reversal of the cervical lordosis at the C4 through C7 levels. Dr. Seale testified that in simple terms it means the neck has a natural

arch to allow the head to look forward or upward and the Claimant had lost his natural arch. According to Dr. Seale, in the Claimant's case, it was due to multiple levels of degeneration or loss of disc space heights. He further explained that in other words, that is a finding that the Claimant had prior to his injury. With respect to the lordotic curve, Dr. Seale opined that it is highly unlikely that this was produced by an acute injury given his degenerative changes. Per Dr. Seale, the Claimant's lordosis occurred due to multiple years of wear and tear on his neck. He agreed that the FCE was correct, consistent, and reliable. According to Dr. Seale, the Claimant has real pain, but that is a subjective finding, and he was unable to apply an impairment rating. Dr. Seale testified that he normally does not check for muscle spasms.

The Claimant was assessed with degenerative issues in the cervical spine resulting in neck pain. He specifically confirmed that the MRI's before and after the Claimant's fall would be unchanged due to his pre-existing degenerative disc disease. Dr. Seale confirmed that the Claimant had an onset of pain after his fall. However, Dr. Seale was unable to decide the exact cause of the Claimant's symptoms because he has degeneration everywhere.

On recross examination by the Respondents' attorney, Dr. Seale confirmed that if the Claimant has muscle spasms, they are more than likely going to be chronic. He stated that he would not assess the Claimant with a permanent impairment for a muscle spasm. Dr. Seale testified that when he looked at the MRI, it revealed multiple levels of degenerative disc disease, with the worse degenerative discs at C5-C6 and C6-7. According to Dr. Seale, the Claimant has Modic endplate changes at C6-7, which is basically advanced degeneration or the body's reaction to degenerative disc disease. He also testified that there was no stenosis at C2-3, but there was mild stenosis at C3-4, with mild stenosis at C3-4 and severe stenosis on the right at C4-5. Dr.

Seale further testified that there was some moderate to severe foraminal stenosis on the right at C5-6, and severe bilateral foraminal narrowing C6-7 and C7-T1.

Dr. Seale confirmed that he released the Claimant to MMI sometime in February of 2025. He gave the Claimant three options, which included filing for disability, finding lighter work or he could just continue to work. However, Dr. Seale opined that from a spine standpoint, the Claimant was fine to go back to doing his job based on the MRI, CT, and x-rays. Dr. Seale confirmed that he returned the Claimant to medium work based on the FCE. Dr. Seale agreed that his opinion was within a reasonable degree of medical certainty regarding the Claimant's ability to return to work at a medium duty capacity.

Adjudication

The Claimant asserts that he has been made permanently and totally disabled because of his compensable neck injury of July 29, 2024.

Ark. Code Ann. §11-9-519(e)(1) (Repl. 2002) provides: "Permanent total disability" means an inability, because of compensable injury or occupational disease, to earn any meaningful wages in the same or other employment. Furthermore, the statute provides that the burden of proof shall be on the injured employee to prove their inability to earn any meaningful wages in the same or other employment. Ark. Code Ann. §11-9-519(e)(2) (Repl. 2002).

The burden of proving permanent total disability is on the Claimant. The Claimant must prove entitlement to these benefits by a preponderance of the evidence. Preponderance of the evidence means the evidence that has greater weight or convincing force. Metropolitan Nat'l Bank v. La Sher Oil Co., 81 Ark. App. 269, 101 S.W.3d 252 (2003).

The Claimant is 62 years of age and holds a valid license in residential HVAC. He had worked for the R&R Sheet Metal Heat & Air for nine years, performing employment duties in

connection with the servicing, maintenance and replacement of residential heating and air units. His prior classification of work falls under the functional guidelines for heavy classification of work as defined by the U.S. Department of Labor. The Claimant suffered an admittedly compensable injury to his neck on July 29, 2024, when he fell from a ladder and landed on his right shoulder. The Claimant reported his injury to his supervisor. The Respondents provided the Claimant with extensive conservative medical treatment which included a medication regimen, physical therapy, and epidural steroid injections in his cervical spine.

Dr. Seale opined that medical documentation showed that the Claimant suffered muscle spasms in his neck because of his work-related fall. The Respondents have accepted this as a compensable claim for the Claimant's neck injury in the form of muscle spasms. I find this assertion to be correct and supported by the imaging performed on the Claimant's cervical spine following his work-related fall.

An MRI of the Claimant's cervical spine revealed extensive significant pre-existing degenerative disc disease in his cervical spine area. These pre-existing degenerative abnormalities were also revealed on a CT scan, which was performed of the Claimant's his neck following his work-related injury of July 2024. Despite conservative treatment in the form of physical therapy, injections and medication, the Claimant has maintained that he has had no significant relief from any of these modalities. The Claimant treated under the care of Dr. Seale, who opined that he was at maximum medical improvement in February of 2025. Dr. Seale assessed the Claimant with a 0% permanent impairment rating for his compensable neck injury. However, the Claimant continued to complain of ongoing severe pain. As a result, the Claimant underwent a functional capacity evaluation which was performed on February 28, 2025. The Claimant completed the FCE with 50 out of 50 consistency measures. Per this evaluation, the Claimant showed the ability to

return to gainful employment in the medium classification of work. Dr. Seale agreed with the valid results of this FCE and has released the Claimant to the medium category of work. Although the FCE proves the Claimant is unable to return to heavy duty work, this evidence clearly proves that he has the physical capacity to perform medium work duties. Hence, I am not persuaded that the Claimant cannot return to any meaningful employment due to his alleged ongoing significant and severe pain resulting from his work injury.

Accordingly, after having listened to the Claimant testimony and been given the opportunity to see his demeanor, I found that the Claimant's testimony to be incredulous in this regard based on all the credible evidence to the contrary. The Claimant tried to return to work on multiple occasions. However, on each occasion, the Claimant maintained he had to stop working due to severe pain. I do not find the Claimant's testimony to be convincing.

In that regard, during cross-examination, the Claimant, by his own admission eagerly testified that he could work given the proper circumstances. There is no medical documentation supporting the finding that the Claimant is unable to return to other gainful employment. Most notably, no physician has opined that the Claimant has been rendered permanently and totally disabled because of his compensable neck injury of July 2024. As a result, I have attached significant weight to the Claimant's valid FCE results, and Dr. Seale's expert opinion wherein he opined that the FCE results are correct in establishing that the Claimant is physically capable of performing medium classification of work. There is no credible evidence proving otherwise. In fact, the Claimant's own testimony establishes that he has been consistently working odd jobs since July 2025, for which he was paid for his services. I am convinced that the evidence clearly indicates that the Claimant is primarily motivated to work only odd jobs.

Hence, the Claimant has rendered himself unable to perform gainful employment with his own self-imposed physical limitations. Accordingly, the preponderance of the credible evidence before me clearly proves that the Claimant has the physical capacity to earn meaningful wages in the medium classification of work.

Therefore, I am compelled to find that the Claimant failed to prove by a preponderance of the evidence that he has been rendered totally and permanently disabled by his compensable neck injury of July 29, 2024.

ORDER

Based on the foregoing findings of facts, this claim for permanent and total disability benefits is hereby respectfully denied and dismissed in its entirety.

IT IS SO ORDERED.

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CHANDRA L. BLACK
Administrative Law Judge