

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H403425

DAVID BONEWELL, Employee	CLAIMANT
VAN BUREN SCHOOL DISTRICT, Employer	RESPONDENT
ARKANSAS SCHOOL BOARDS ASSN., Carrier	RESPONDENT

OPINION FILED OCTOBER 7, 2025

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant represented by EDDIE H. WALKER, Attorney at Law, Fort Smith, Arkansas.

Respondents represented by JARROD S. PARRISH, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On July 10, 2025, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on April 21, 2025, and a Pre-hearing Order was filed on April 22, 2025. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The relationship of employee-employer-carrier existed between the parties on March 25, 2024
3. The claimant sustained a compensable injury to his left shoulder on or about March 25, 2024. The respondents have controverted any injury to the claimant's left elbow.

4. The claimant was earning sufficient wages to entitle him to compensation at the weekly rates of \$552.00 for temporary total disability benefits and \$414.00 for permanent partial disability benefits.

By agreement of the parties the issues to litigate are limited to the following:

1. Whether Claimant sustained a compensable injury to his left elbow on or about March 25, 2024.
2. Whether Claimant is entitled to medical treatment for his left elbow injury.

The claimant's contentions are as follows:

“a. The Claimant contends that in addition to sustaining compensable injury to his left shoulder on March 25, 2024 he also sustained injury to his left elbow.

b. The Claimant contends that he is entitled to temporary total disability benefits from whatever date the medical records support until a date yet to be determined. The claimant acknowledges that he is currently still working.

c. The Claimant contends entitlement to reasonable and necessary medical treatment.

d. The claimant contends that his attorney is entitled to an appropriate attorney’s fee.”

The respondents’ contentions are as follows:

“Respondents contend that the treating physician has indicated that his need for surgery is related to preexisting and underlying problems and not an acute injury. In light of this, it is Respondents’ position that the surgery recommended by Dr. Songy is not reasonable and necessary.”

The claimant in this matter is a 74-year-old male who sustained a compensable injury to his left shoulder on or about March 25, 2024, while moving a heavy piece of furniture for his employer. The claimant alleges that he also sustained an injury to his left elbow in that same

incident. On direct examination the claimant gave testimony regarding the incident and the injury he alleges to his left elbow as follows:

Q Tell us about your accident. What happened?

A We had previously moved this one particular room, all the contents to the library. The floor, the new flooring had been laid and it was time for that to be reinstalled, all the desks and chairs and the teacher equipment: Armoires, file cabinets, desks, et cetera.

And on that day there was no help. There was only two of us that were to move. We were told that we had to move all of the contents from the library back into the room and have it set up for the teacher's classes for the next day.

So the first item that we wanted to try to move was the armoire because we knew it would cause us the most problems and it had to go in first. The only way to move the armoire is two – there is only two of us now – we both have to get on one side and raise up and we have one dolly on the floor and one of us with one foot would kick it underneath, kick the dolly underneath the armoire. We would let the armoire back onto that.

Next, if two people pushed on the other side of the armoire, obviously, it would just roll, so one person had to stay on one side and keep it from moving while the other one took a dolly on the other side and raised up and with one foot kick the other dolly underneath.

Whenever I raised up, my shoulder popped and blow my elbow – it felt like a huge rubber band popped. I felt it. And the helper asked what that noise was and I said, "My shoulder had popped." I said, "I think I am all right," so we went ahead and worked and finished. And at the end of the day, I started – my elbow started swelling up.

Q Okay. Let me stop you at this point.

A Sure.

Q The medical records say that you reported that you felt or had a snap in your elbow. Is that what you are talking about when you are describing your elbow? You said it was like a rubber band?

A It felt like a rubber band popped between my elbow and my forearm.

The claimant did not immediately report his injury. However, the next day the claimant did report his injury and was seen by the respondent/employer's nurse. Direct examination testimony by the claimant about the reporting of his March 25, 2024, incident follows:

Q And did you report that to somebody in the supervisory capacity?

A I did not report it that day. I did not want to go through the paperwork to report it. I honestly didn't think it was all that serious at all. It didn't bother me the rest of the day. And the next day I kept ice on it.

And one of – the principal was coming by me and asked me – I had a bandage, I believe, an Ace bandage around my elbow – asked me what was wrong and I told him and he said, “Well, it looks awful swollen.” He said, “You need to report that.”

So that was on a Wednesday and I reported it and the next morning it was swollen and they suggested I have the nurse look at it.

So the nurse –

Q You can't tell me what the nurse told you or any of that, but you went and had the nurse look at it; is that correct?

A Yes.

Q And were you referred to get medical treatment? Did your employer send you somewhere to get medical treatment?

A On Thursday morning, they sent me to Occupational at Regions Park in Fort Smith.

The respondent sent the claimant for medical treatment at Mercy Occupational Medicine Fort Smith on March 28, 2024. At that time the claimant was seen by APN Tawni Glander. The claimant was diagnosed with a strain of muscle and tendon of the rotator cuff, left shoulder, and

lateral epicondylitis, left elbow. The report from that visit also states, “This is the first visit for the left shoulder and elbow injury. X-rays without bony abnormality, due to weakness in the left elbow and arm with associated symptoms to his left hand, recommend MRI left elbow and left shoulder. Follow-up once complete.”

On April 7, 2024, the claimant underwent an MRI of his left elbow at Mercy Hospital Fort Smith. Following is a portion of that diagnostic report:

IMPRESSION:

1. Prominent osteoarthritis left elbow with joint effusion and loose bodies present.
2. Complete tear radial collateral ligament and likely lateral ulnar collateral ligament.
3. Some mild tendinosis common flexor/extensor groups with a possible mild strain common flexors with some associated soft tissue edema.

On April 8, 2024, the claimant was again seen at Mercy Occupational Medicine Fort Smith and the claimant’s diagnosis regarding his left elbow was changed to “traumatic rupture of left radial collateral ligament and traumatic rupture of left ulnar collateral ligament.” The claimant was referred to an orthopedic doctor at that time.

Medical records and the claimant’s testimony are in agreement that the claimant’s left elbow was not focused on at the start of his treatment with an orthopedist. Instead, his compensable left shoulder injury and a non-work-related right shoulder problem were dealt with first. On January 16, 2025, the claimant began treatment for his left elbow injury with Dr. Chad Songy, whom is an orthopedic surgeon. Following is a portion of the medical report from that visit:

History of Present Illness:

David Bonewell is a 74 y.o. male who is here today for his left elbow. He is a left-hand dominant male who works for the Van Buren School System. He sustained an injury at work, this is a

worker's Comp injury. Injury was on 03/25/2024. The patient was moving a storage cabinet and he felt a pop in his shoulder and a snap in his elbow. We have treated him for both his right and left shoulder. He has had elbow pain is entire time, but we have focused on the shoulders 1st. Here today to discuss his left elbow.

Plan

David Bonewell is a 74 y.o. male who is here today to discuss his left elbow. He had a worker's Comp injury which has affected both the right and left shoulder as well as his left elbow. He has undergone rotator cuff repairs of both shoulders. Today's visit is specifically to discuss his left elbow.

The patient has advanced elbow arthritis affecting both the radiocapitellar and ulnohumeral joint. This arthritis was certainly pre-existing and is associated with intra-articular loose bodies. He certainly could have had an arthritic flare with this injury (acute worsening of a pre-existing problem), but the osteoarthritis and the loose bodies were pre-existing. I also suspect the majority of the damage to his tendons were present as well associated with the degenerative changes in the joint, but we are unable to determine this without a pre-existing MRI. The patient also has moderate to severe ulnar nerve neuropathy/cubital tunnel syndrome. We have previously tried an intra-articular steroid injection without lasting relief or improvement. The patient states he had no pre-existing pain or problems in this left elbow are issues with the numbness and tingling in his hand. This is an acute worsening of a pre-existing problem. If he were to have treatment for the left elbow, I would recommend a left elbow arthroscopy with extensive debridement, loose body removal, and cubital tunnel release. He would need a CT scan prior to that.

In order to prove a compensable injury as the result of a specific incident that is identifiable by time and place of occurrence, a claimant must establish by a preponderance of the evidence (1) an injury arising out of and in the course of employment; (2) the injury caused internal or external harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings establishing an injury; and (4) the injury was caused by a specific incident identifiable by time and place of occurrence. *Odd Jobs*

and More v. Reid, 2011 Ark. App. 450, 384 S.W. 3d 630.

The claimant does have objective medical findings regarding his left elbow. Some of those findings are due to pre-existing degenerative changes in the claimant's left elbow. However, the MRI also revealed a traumatic rupture of the claimant's left radial collateral and left ulnar collateral ligaments as diagnosed in his April 8, 2024, visit to Mercy Occupational Medicine after his MRI of the left elbow. Dr. Songy also states that "this is an acute worsening of a pre-existing problem." The claimant told Dr. Songy that he had no pre-existing pain or problems with his left elbow before his March 25, 2024, incident. The claimant gave testimony consistent with that statement at the hearing in this matter as follows:

Q Okay. There is a report from Dr. Songy that is dated January 16 of 2025 – it's on Page 17 of Claimant's Exhibit, Judge – and he says that, "He has had elbow pain the entire time, but we focused on the shoulders first." Is that what happened?

A Yes.

Q And then on Page 21 of that same report it says – talking about your elbow – "This is an acute worsening of a preexisting problem."

Now, as far as any preexisting problem is concerned, was there anything visibly wrong with your elbow before this accident that happened on March the 25th of 2024? Could you look at your elbow and tell if there was anything wrong with it?

A No.

Q Did you limit your activities in terms of the use of your elbow, your left elbow, in any way before this March 25, 2024 accident?

A No.

Q When did you first become aware that you had any issue with your left elbow?

A After the accident.

Q Have you injured your elbow at any other time?

A No, sir.

Q Could you have performed the job duties that you have described here today if your left elbow was in the condition before the March 25, 2024 accident than it was after the March 25, 2024 accident? In other words, with your elbow in its current condition, could you have done all that work that you did before the accident?

A I could before. Not after.

The claimant has, since his March 25, 2024, incident, consistently reported pain associated with his left elbow. Dr. Songy's January 16, 2025, report states, "He has had elbow pain is [SIC] entire time, but we have focused on the claimant's shoulders first." In the claimant's first visit to a medical provider on March 28, 2024, the claimant complained of left elbow difficulties. The claimant is able to establish a causal connection between the incident he alleges on March 25, 2024, and the objective medical findings in his left elbow. The claimant is able to prove by a preponderance of the evidence that he sustained a compensable injury to his left elbow on March 25, 2024, while lifting a heavy piece of furniture for his employer.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witness and to observe his demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on April 21, 2025, and contained in a Pre-hearing Order filed April 22, 2025, are hereby accepted as fact.

2. The claimant has proven by a preponderance of the evidence that he sustained a compensable injury to his left elbow on or about March 25, 2024.

3. The claimant has proven by a preponderance of the evidence that he is entitled to medical treatment for his compensable left elbow injury.

ORDER

The respondents shall pay for reasonable and necessary medical treatment associated with the claimant’s compensable left elbow injury.

Pursuant to A.C.A. §11-9-715(a)(1)(B)(ii), attorney fees are awarded “only on the amount of compensation for indemnity benefits controverted and awarded.” Here, no indemnity benefits were controverted and awarded; therefore, no attorney fee has been awarded. Instead, claimant’s attorney is free to voluntarily contract with the medical providers pursuant to A.C.A. §11-9-715(a)(4).

If they have not already done so, the respondents are directed to pay the court reporter, Veronica Lane, fees and expenses within thirty (30) days of receipt of the invoice.

IT IS SO ORDERED.

**HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**