

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H404010

RICKY W. COOPER,
EMPLOYEE

CLAIMANT

ATLAS ASPHALT, INC.,
EMPLOYER

RESPONDENT

BITCO GENERAL INSURANCE CORP.,
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED FEBRUARY 10, 2026

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

Claimant represented by the HONORABLE GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed as Modified.

OPINION AND ORDER

The claimant appeals an administrative law judge's opinion filed July 22, 2025. The administrative law judge found that the claimant failed to prove an employment relationship existed on June 24, 2022, the date the claimant allegedly sustained a compensable injury. After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove by a preponderance of the evidence that he sustained a compensable injury.

I. HISTORY

Ricky Wayne Cooper, Jr., now age 51, testified on direct examination:

Q. Can you give us a little history of your job [at White River Materials] and what you had to do on a daily basis?

A. Well, sure. When I hired in there, I was a motor-grader operator, a finish motor-grader operator. Then they didn't have a dozer operator, so I went to running a dozer. I run crews, I've worked on different jobs in a day, multiple times of changing workplaces. I was mainly a finish operator. That's what I did with all phases of the job.

Q. Is that what you were doing on June 24, 2022?

A. Well, no, sir, I wasn't finishing. I was running a bulldozer, but I wasn't doing finish work with it. We was taking up old concrete, really just sitting there not doing much, you know. The hoe did all the work.

Q. Is it more preparatory work for ultimately finishing –

A. Well, that's what it was, yes, sir. It was the starting of a job is what it was, at the beginning of the job.

Q. All right. So what – what – White River Materials, what do they do?

A. White River Materials does civil construction, sir, build roads, you know, put down gravel, asphalt, clear land, you know, anything that civil engineering and civil construction is....

Q. The particular job that you were involved in on June 24, 2022, where was the – where was it located?

A. Jonesboro, Arkansas.

Q. Okay. Now, Ricky, you were paid wages for your time while you were on the job?

A. White River paid me for everything, sir, that I did.

Q. Okay. When you say –

A. Including commuting.

Q. Okay. Let's talk about when you say "for everything," what do you mean by that?

A. Well, they paid me for my heart surgery. I was off for undoubtedly amount of months. I can't remember exact. Five bypasses. And they paid me for my – six weeks for my daddy's funeral, six weeks right there for my wife's daddy's funeral. They paid me for everything. Everything that I done, I got paid for....

Q. Well, with respect to your – your job itself of heavy equipment operator going to these various job sites you had a truck?

A. Yes, sir. I had a truck when I hired in about nine or 10 years ago from the date of the accident. That's where I can talk from....

Q. You were given a truck to drive to and from your home?

A. I was given a truck to drive from job to job and conduct business out of my pickup truck and do my job, and I was sort of like a working foreman, you know. That wasn't my title, but that was what I was. I was over all the trucks several times. I mean, I just ran – you know, I was over the flaggers.

Wherever my area was I was working, that's what I took care of, and it – I had to use my truck sometimes just to make phone calls or whatnot....

Q. Did you, on the day of the accident, June 24, 2022, did you drive from your home to the – in Shirley to the job site or from someplace else to the job site?

A. I drove from Baymont Hotel in Jonesboro, Arkansas to the job site.

Q. Okay. So you were in fact –

A. They was reimbursing me. I've got credit card statements, not with me, but I have it where I've paid for it, and they didn't reimburse me that last week.

Warren D. Robinson, Jr. testified that he had been the respondent-employer's Project Manager on June 24, 2022. The respondents' attorney examined Mr. Robinson at hearing:

Q. Did you happen to have some communications with Mr. Cooper on [June 24, 2022]?

A. Yes.

Q. Okay. Tell me what happened.

A. Well, I was driving down the northbound lanes that afternoon, I saw the dozer that he was in parked, and so that's when I called Ricky and I said, "What's going on? Why is the dozer parked?" And he said some – said that he was quitting, he was going home, that we could come pick up the truck from his house.

Q. Did you question him about that, why he was quitting?

A. And I says, "What are you quitting for?" and he said he's tired of the BS, and that was it, and the phone hung up. And I

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Q. So do you know that time of day this was?

A. I believe it was around 1:30 in the afternoon, 1:24 or 1:30. You know, I mean, it's several years ago, but it was in that neighborhood....

Q. So he just flat said, "I'm quitting"?

A. Yes.

Q. Did you – did you write down a memorandum of this event?

A. It's right here, yes. This is – this is my statement that was turned in for his file....

Q. So if he quit at that point, he was still in Jonesboro?

A. As far as my knowledge is, he was in Jonesboro.

Q. And did you see him in his truck?

A. No. By the time I went by, his truck was gone.

Q. And after he quit, was there any job services or duties he was supposed to do between Jonesboro and Shirley?

A. Not for me and not for the company. We didn't have any projects that way.

The record includes an EMPLOYEE DISCIPLINARY ACTION FORM, "Date of Warning: 6/24/22." The EMPLOYEE DISCIPLINARY ACTION FORM WAS signed by supervisor Warren Robinson on June 24, 2022. The Type of Violation was "Other (explain) Left project and said that he was quitting, and we could come pick up the truck from his house." The Violation Date was June 24, 2022, "Violation Time: around 12:00 PM." The Violation Location was "I-555/Jonesboro."

The EMPLOYEE DISCIPLINARY ACTION FORM included an Employer's Statement:

On the afternoon of 6/24/22 Ricky parked the dozer and left the project. I was driving by the dozer in the north bound lane

and saw it parked, so I called him and he informed me he was quitting and going home. He also stated that we could come pick up the truck from his house.

The claimant testified on direct examination:

Q. They say that you quit your job?

A. No, sir.

Q. Did not happen?

A. No, it'd be wrong....

Q. During your deposition, Ricky, again talking about your – about your vehicle, about your transportation situation, you indicated to Mr. Ryburn that you get paid until you get home to your driveway –

A. Yes, sir.

Q. – is that right?

A. That would be correct.

The claimant further testified on direct examination:

Q. So on June 24, 2022, you were involved in a motor vehicle accident, is that correct?

A. Yes, sir....

Q. Do you remember what happened with respect to the actual accident that you were in?

A. Yeah. Kenny and Jeremy both told me to take the rest of the day off with pay. And I got to about – right before Con – right after Concord, right around Highway 5 where you turn to go – right past that Highway 5 turn, a girl lost control of her car and uncontrollable skid and hit me right behind the driver's side door there in my work truck.

Q. Now, you sustained injuries as a result of that accident?

A. I did....I went home, and the next morning I got up and went to the emergency room.

The respondents' attorney cross-examined the claimant:

Q. When you left Jonesboro to go back to Shirley, you got to where before you had the wreck?

A. Right past the turnoff to Highway 5 between Drasco and Concord.

Q. Okay.

A. It was right past the Highway 5 turnoff to go to Mountain View....

Q. Did you have any work to do between Jonesboro and Drasco?

A. Well, I – I was on the telephone with Kenny and Jeremy almost all the way talking. I guess I was. I was talking work business....

Q. Now, at the time of this accident near Drasco, why were you where you were?

A. Because Jeremy and Kenny told me to take the rest of the day off with pay.

According to the record, the claimant treated at St. Vincent Health System on June 25, 2022:

Pt restrained driver involved in MVA around 1530. Reports getting t-boned. Pt reports hitting head. Denies any LOC....Pt reports pain left hip, left knee, chest, upper back, neck. Diffuse pain throughout. Was not seen post[.]... The patient presents following motor vehicle collision. The onset was 1 days ago. The Collision was moderate speed and rollover. The patient was the driver.

A musculoskeletal examination showed “No swelling, no deformity.”

A CT of the claimant’s head was taken on June 25, 2022 with the following impression:

1. No acute intracranial process visualized.
2. Bilateral ethmoid and maxillary sinus disease.

A CT of the claimant’s cervical spine was taken on June 25, 2022 with the impression, “Negative study.” A CT of the claimant’s chest was taken on June 25, 2022 with the impression, “1. No acute pulmonary finding. 2. No fracture or other acute posttraumatic process.” A CT of the

claimant's abdomen and pelvis was taken on June 25, 2022 with the impression, "No acute posttraumatic process of the abdomen or pelvis."

The claimant was discharged in stable condition on June 25, 2022. It was noted on June 25, 2022, "Did not fully assess this pt. Pt was assessed and discharged from waiting room per medical provider. Trauma sheet completed and turned into charge nurse."

The claimant treated at Dodd Family Practice on or about June 28, 2022:

PATIENT IS HERE TO FOLLOW UP HE WAS T-BONED IN DRASCO FRIDAY AFTERNOON AND HAD TO BE CUT OUT OF HIS VEHICLE HE IS HAVING PAIN IN HIS NECK HIS HANDS ARE NUMB AND HIS RIGHT THUMB IS HURTING HIS EQUILIBRIUM IS OFF AND HE IS HAVING VISUAL DISTURBANCE....HE IS HAVING PAIN IN HIS RIGHT ANKLE AND LEFT HIP HE IS HURTING REALLY BAD....HE IS A HEAVY EQUIPMENT OPERATOR AND WAS ON HIS WAY HOME IN A COMPANY TRUCK WHEN HE GOT T-BONED. HE IS HAVING PANIC ATTACKS EVERYTIME HE GETS IN A VEHICLE FEELING LIKE SOMEONE IS GOING TO HIT HIS VEHICLE HE HAS NOT BEEN ABLE TO DRIVE SINCE HIS ACCIDENT....
PT IS HAVING DECREASED ROM OF CERVICAL SPINE AND PAIN WITH PALPATION TO CERVICAL SPINE MUSCLE SPASMS ACROSS BILATERAL NECK/SHOULDER WITH ROM.

The assessment of Angela Dodd, APRN included "Pain in cervical spine."

An x-ray of the claimant's hip was taken on July 5, 2022 with the impression, "Negative." An x-ray of the claimant's right ankle was taken on

July 5, 2022 with the impression, "No acute findings. Haglund deformity. Tiny calcaneal spur." An x-ray of the claimant's right foot was taken on July 5, 2022 with the findings, "No fracture is identified. No dislocation is identified. No arthritis is noted. No periosteal reaction or unexpected opaque foreign body is seen."

The claimant began a series of visits with Robert Yerton, LCSW on July 14, 2022. Mr. Yerton's initial diagnosis was "Post-traumatic stress disorder," "Major depressive disorder, single episode, severe without psychotic features," and "Other situational type phobia."

Robert Yerton noted on July 21, 2022, "Ricky reported that he was fired from his job this week due to his doctor filing his treatment from his accident as workman's comp. 'I have worked for that company for 9 years, they took care of my (sic) for 12 weeks after my heart bypass and now this.' He says that he has been having nightmares before but they increased since getting fired."

The claimant was examined at Legacy Spine & Neurological Specialists on or about October 7, 2022:

Mr. Cooper is a 47 year old male who presents with neck pain and low back pain. He reports that his neck pain began 4 months ago following an MVA to which [he] was T-boned in the car flipped multiple times. He states that the pain in his neck will radiate into both shoulders and anteriorly down both arms to both hands. He also reports pain that radiates into both shoulder blade areas....He is experiencing significant headaches primarily to the base of his skull however this may

intermittently wraparound anteriorly toward his temples. He is experiencing slight dizziness and having trouble focusing with severe pain. He reports numbness, weakness, and tingling to his arms bilaterally.

He is also experiencing low back pain that will radiate into both hips and anteriorly down to both feet....

It was subsequently noted, "*Cervical spine MRI from 10/19/22 demonstrates no evidence of central canal or neural paraspinal stenosis. No spondylolisthesis. There is normal cervical lordosis.*"

An MRI of the claimant's lumbar spine was taken on October 26, 2022 with the following conclusion:

Dominant findings are noted at the L5-S1 level with disc height loss, retrolisthesis, a broad-based disc bulge with central protrusion and facet hypertrophy contributing to abutment of bilateral exiting L5 nerves and abutment of bilateral descending S1 nerves.

The claimant underwent a sacroiliac joint injection on November 3, 2022 and a selective nerve root block on November 21, 2022. The claimant underwent a sacroiliac joint injection on December 12, 2022. The claimant underwent cervical medial branch blocks on February 13, 2023 and March 16, 2023. The claimant underwent a cervical rhizotomy on April 6, 2023.

Dr. Dominic Maggio performed procedures on April 11, 2023: "1) Sacroiliac joint arthrodesis with instrumentation with iFuse Implant System-S1 bone, Left. 2) Use of intraoperative fluoroscopy." The pre- and post-operative diagnosis was "Left sacroiliac joint dysfunction."

A pre-hearing order was filed on March 20, 2025. The claimant contended, "Claimant contends that he sustained compensable injuries, 06/24/22. Claimant contends entitlement to payment of temporary total disability benefits continuing through a date yet to be determined. Medical expenses have been incurred. This claim has been controverted for purposes of attorney fees. Claimant's attorney respectfully requests that any attorney's fees owed by the claimant on controverted benefits paid by award or otherwise be deducted from claimant's benefits and paid directly to the claimant's attorney by separate check, and that any Commission Order direct the respondent to make payment of attorney's fees in this manner."

The respondents contended, "Respondents will assert the following defenses: The claimant did not sustain a compensable injury. He terminated his employment prior to the time of the accident. He was on his way home and not performing employment services at the time of the accident."

According to the text of the pre-hearing order, the parties agreed to litigate the following issues:

1. Did an employee/employer relationship exist on June 24, 2022, at the time of the injury, and if one did exist, was the injury compensable.
2. Medical.
3. TTD from the date of the injury to a date to be determined.
4. Attorney fees.

5. All other issues are reserved.

On May 21, 2025, the respondents presented additional contentions:

“Respondents contend that:

1. The claimant does not have a compensable mental or PTSD injury. His condition is not verified, as required by law, by a licensed psychiatrist or psychologist.
2. The claimant does not have a compensable SI joint injury as it is not corroborated by objective medical findings.
3. The claimants (sic) lumbar condition is attributable to degenerative findings and was not caused by the accident. The major cause of any PPD is not the accident.
4. The claimants (sic) cervical condition is degenerative and was not caused by the accident.
5. No doctor has opined that the accident is the cause of any of the claimant’s medical conditions.”

After a hearing, an administrative law judge filed an opinion on July 22, 2025. The administrative law judge found that the claimant failed to prove an employment relationship existed on June 24, 2022. The claimant appeals to the Full Commission.

II. ADJUDICATION

Act 796 of 1993, as codified at Ark. Code Ann. §11-9-102(4)(Repl. 2012), provides, in pertinent part:

- (A) “Compensable injury” means:
 - (i) An accidental injury causing internal or external physical harm to the body ... arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is “accidental” only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]
- (B) “Compensable injury” does not include:
 - (iii) Injury which was inflicted upon the employee at a time when employment services were not being performed

or before the employee was hired or after the employment relationship was terminated[.]

An employee is performing employment services when he is doing something that is generally required by his employer. *Dairy Farmers of America v. Coker*, 98 Ark. App. 400, 255 S.W.3d 905. The Arkansas Supreme Court uses the same test to determine whether an employee is performing employment services as it does when determining whether an employee is acting within the course and scope of employment. *Pifer v. Single Source Transp.*, 347 Ark. 851, 69 S.W.3d 1(2002). The test is whether the injury occurred within the time and space boundaries of the employment, when the employee was carrying out the employer's purpose directly or indirectly. *Id.*

A compensable injury must also be established by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102(4)(D)(Repl. 2012). "Objective findings" are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102(16)(Repl. 2012).

The employee has the burden of proving by a preponderance of the evidence that he sustained a compensable injury. Ark. Code Ann. §11-9-102(4)(E)(i)(Repl. 2012). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003).

An administrative law judge found in the present matter, “2. That the claimant has failed to satisfy the required burden of proof to show that an employer/employee carrier relationship existed on June 24th, 2022, 2025 (sic), the date of the claimed injury involving a motor vehicle accident.” The Full Commission finds that the claimant did not prove by a preponderance of the evidence that he sustained a compensable injury.

The claimant testified that he had been employed with the respondents as a “Finish Operator.” The claimant testified that he was “running a bulldozer” for the respondents on June 24, 2022. Warren D. Robinson, Jr., the respondent-employer’s Project Manager, testified that he drove past the respondents’ work site on June 24, 2022 and “I saw the dozer that he was in parked.” Mr. Robinson testified that he called the claimant and “He said some – said that he was quitting, he was going home, that we could come pick up the truck from his house....[H]e said he’s tired of the BS, and that was it, and the phone hung up.”

The claimant testified that he did not terminate his employment relationship with the respondents on June 24, 2022. The claimant testified that two other supervisory employees “told me to take the rest of the day off with pay.” The Full 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 it deems worthy of belief.

Farmers Co-op v. Biles, 77 Ark. App. 1, 69 S.W.3d 899 (2002). The Full Commission finds in the present matter that the claimant was not a credible witness. There was no probative evidence of record corroborating the claimant's testimony that he was told to "take the rest of the day off with pay." Instead, the evidence corroborated the credible testimony of the respondent-employer's Project Manager, Warren D. Robinson, Jr.. Warren Robinson completed an EMPLOYEE DISCIPLINARY ACTION FORM on June 24, 2022 which corroborated Mr. Robinson's testimony. The EMPLOYEE DISCIPLINARY ACTION FORM filled out by Warren Robinson indicated that the claimant "was quitting and going home. He also stated that we could come pick up the truck at his house."

The evidence therefore demonstrates that the June 24, 2022 motor vehicle accident took place "after the employment relationship was terminated," in accordance with Ark. Code Ann. §11-9-102(4)(B)(iii). Therefore, any injuries the claimant allegedly sustained on June 24, 2022, after he terminated his employment and left the work site, were not compensable.

Moreover, the Full Commission finds that the claimant was not performing employment services for the respondents at the time of the June 24, 2022 motor vehicle accident. We recognize that a claimant may be performing employment services if the employer requires him to travel from

jobsite to jobsite as part of his work. See *Moncus v. Billingsley Logging*, 366 Ark. 383, 235 S.W.3d 877 (2006). In the present case, however, the record does not show that the claimant was performing employment services at the time of the June 24, 2022 motor vehicle accident. The critical inquiry in accordance with Act 796 of 1993 is whether the claimant was performing employment services *when the injury occurred*. See *Parker v. Comcast Cable Corp.*, 100 Ark. App. 400, 269 S.W.3d 391 (2007), citing *Moncus, supra*. The Commission is bound to examine the activity the claimant was engaged in *at the time of the accident* in determining whether or not he was performing employment services. *Hill v. LDA Leasing*, 2010 Ark. App. 271, 374 S.W.3d 268 (2010).

In the present matter, the evidence does not demonstrate that the claimant was performing employment services at the time of the motor vehicle accident which took place on June 24, 2022. The evidence does not demonstrate that the claimant was performing his duties for the respondents after he voluntarily left the work site on June 24, 2022, which duties primarily involved heavy equipment operation, *i.e.*, driving a bulldozer. Nor does the record corroborate the claimant's testimony that he was "talking work business" while driving from Jonesboro to Shirley on the afternoon on June 24, 2022. The evidence before the Commission does not demonstrate that the claimant was performing employment services at

the time of the June 24, 2022 motor vehicle accident. Therefore, the claimant did not prove that he sustained a compensable injury. See *Farler v. City of Cabot*, 95 Ark. App. 121, 234 S.W.3d 352 (2006). The record does not show that the claimant was carrying out the employer's purpose directly or indirectly at the time of the accident. See *Pifer, supra*.

After reviewing the entire record *de novo*, the Full Commission finds that the injuries allegedly sustained by the claimant on June 24, 2022 occurred after the claimant voluntarily terminated his employment relationship with the respondents, in accordance with Ark. Code Ann. §11-9-102(4)(B)(iii)(Repl. 2012). We also find that the claimant was not performing employment services for the respondents at the time of the June 24, 2022 motor vehicle accident. The claimant did not prove by a preponderance of the evidence that he sustained a compensable injury on June 24, 2022. The Full Commission therefore respectfully denies and dismisses this claim.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

MICHAEL R. MAYTON, Commissioner