BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H505556

RODNEY R. DEHAVEN, EMPLOYEE	CLAIMANT
RODNEY DEHAVEN, EMPLOYER	RESPONDENT
MISSOURI EMPLOYERS MUTUAL INS. CO., INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED AUGUST 6, 2026

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

Claimant represented by the HONORABLE JARID M. KINDER, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE KAREN H. McKINNEY, 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 March 26, 2026. The administrative law judge found that the claimant proved he sustained a compensable injury to his right shoulder and left shoulder. The Full Commission finds that the claimant did not prove by a preponderance of the evidence that he sustained a compensable injury to his right shoulder or left shoulder.

I. HISTORY

Rodney Ray DeHaven, now age 60, testified that he had been performing tile installation since 2009. Mr. DeHaven described the work as

"laborious." The claimant testified that he was the sole proprietor of the respondent-employer, Rodney DeHaven Tile. The claimant testified on direct examination:

> Q. Now, did you ever have any problems with your shoulders before this incident?
> A. It has been brought to my attention that I did see a doctor about – I did see a doctor about some shoulder pain, yes.
> Q. Okay. And when did you see a doctor about shoulder pain?
> A. I think it was when I first got here. I was on a job and tried to chuck a bag full of tile into a trash can and kind of stressed my arm a little bit and my shoulder.

The claimant treated at Community Physicians Group on October 5, 2022, at which time the claimant was assessed with "1. Acute pain of right shoulder." A physician noted, "Patient states about 1 year ago he was lifting a bag of trash with just his right arm into a trash can. He states it was very heavy and caused alot (sic) of pain. Hadn't really bothered him much until about 2 weeks ago he did something unsure what to make the pain flare. He states if he is not working or moving it the pain is minimal." The claimant testified that he received a steroid injection and did not suffer from additional problems with his right shoulder.

The parties stipulated that the employee-employer-carrier relationship existed on November 8, 2024. The claimant testified on direct examination:

> Q. What part of your body do you contend was hurt in this workplace incident?

A. Shoulders.
Q. And you say shoulders. Is that both your left and right shoulder?
A. Yes.
Q. Okay. Where were you working when you were injured?
A. I can't really tell your where I was, but it was in a bathroom working on a tub….
Q. Were you retiling the tub?
A. Yes.
Q. What kind of tile was it? Do you remember?
A. It was on a sheet, so mosaic….
Q. How big were the individual pieces of tile?
A. Not big. I think they were smaller tile, like 12-inch by 12-inch sheets.
Q. Walk me through how the injury occurred, please.
A. Well, it was a total gut of the tub, so I had to demo that out so it was just frame, and I had to put it all back together. And when I say back together: Hang drywall, hand waterproofing. During the process of drywall, I was getting the top piece, both arms are on the bottom of it, stepping on the side of the tub, lost my balance. Instead of letting the piece go and smashing the tub, I took all the weight of it as I fell back that day….
Q. How big was that piece of sheet of drywall?
A. It was five by four.
Q. Is that five foot by four foot?
A. Yes….
Q. Where was the drywall you were supposed to be hanging?
A. In my hands.
Q. Okay. And where were you supposed to be putting it?
A. Up on the wall on the very top.
Q. How high was above on the very top?
A. Eight feet. That is from the floor to the top.
Q. Would this require you to reach above your head?
A. Yes. And step over and climb the tub….
Q. What caused you to lose your balance?
A. Just kind of slipped on the edge of the tub. It is not a very wide space to step on….
Q. How did you know you were hurt?
A. I felt a jerk and a popping in both shoulders, right and left….
Q. Were you able to finish the job that day?

> A. I finished what I needed to finish that day, which was hanging drywall and waterproofing….
> Q. How were you that evening?
> A. Sore.

The exhibits include an Invoice from Rodney DeHaven dated November 8, 2024 and billed to "Marshproperties (sic)." Items on the Invoice included "Main bathroom," "Installed and grouted 85sqf of mosaic tile."

According to the record, the claimant treated at Community Physicians Group on November 12, 2024. Dr. Roger Youmans noted at that time:

> C/o right shoulder pain x couple weeks. Pain is described as 5 on a pain scale but, can get up to a 10. Aggrivated (sic) by work. Also c/o fatigue and sluggishness for the last month. States he is not sleeping well at night and just feels tired all the time….
> MUSCULOSKELETAL: tender R subacromial space. Injected w 0.5 cc lido and 20 mg kenalog with good results….
> **Assessments**
> 1. Subacromial bursitis of right shoulder joint[.]
> 2. Other chronic pain[.]
> 3. Pain in right shoulder[.]
> 4. Gastroesophageal reflux disease, unspecified whether esophagitis present[.]
> 5. Chronic fatigue[.]

Dr. Youmans referred the claimant to Dr. Robert Benafield, Jr. Dr. Benafield reported on November 26, 2024:

> Patient is a 58-year-old right-hand-dominant male who is a tile installer. He has had bilateral shoulder pain for the past 2 months pretty bad off and on previously. It is worse on the right than the left. He went and saw his primary care provider

> Dr. Youmans who told after x-rays that he had bone-on-bone arthritis and he was referred over. He has pain with abduction internal rotation and pain at night. He was given an injection by Dr. Youmans but it did not help at all….
> Bilateral upper extremities: Intact skin no deformities. He has good active range of motion with pain in abduction internal rotation bilaterally. He has right greater than left positive impingement sign positive crossarm positive speeds positive supraspinatus provocative test with pain but good strength. He has no AC joint tenderness bilaterally. Distally he is neurovascularly intact.
> X-rays reviewed from another facility which show maybe some mild glenohumeral arthritis on the left but he still has preserved joint space he has some AC joint degenerative change on the right….
> I have discussed with the patient regarding his history and exam which are consistent with impingement syndrome of the shoulders bilaterally. We discussed etiology natural history and treatment options. He was offered an injection of corticosteroid in the subacromial space bilaterally with home exercises. Patient agreed and tolerated it well. We discussed what to expect with the injection how to do the exercises. I will release him and see him back as needed.

Dr. Benafield assessed "1. Bilateral impingement syndrome of shoulders" which included "Impingement syndrome of right shoulder" and "Impingement syndrome of left shoulder."

Dr. Benafield noted on February 11, 2025, "Patient seen in follow-up for his bilateral shoulder impingement. I injected him in late November said it went away for about a month or so and then it came back. The left 1 clicks and pops when he moves it….I had a discussion with the patient regarding his shoulder pain coming back so soon. It is really too early for another injection. I think we should do MRIs of bilateral shoulders to

assess the rotator cuff and the AC joints. Patient is in agreement with this plan so we will order it and I will see him back after they are done and we will discuss treatment options."

The claimant was provided bi-weekly physical therapy visits beginning March 25, 2025: "Pt is a 59 y/o male reporting to therapy for treatment of bilateral shoulders. He reports that he had injections in both shoulders, the right one still feels good, but the left one hurts quite a bit."

The claimant testified that he did not benefit from physical therapy. Dr. Benafield noted on May 1, 2025, "Patient seen in follow-up for his bilateral shoulders. He reports he is having left greater than right pain and limitation in lifting weight overhead and extension. He [has] done therapy now at the [insurer's] request and it has not helped his problem….I think given where he is the MRIs would be helpful and he agrees. We will order these again and then I will see him back and we will discuss treatment options based on the results."

An MRI of the claimant's right shoulder was taken on July 31, 2025:

> History: Right shoulder pain[.]…
> Impression: 1. There is a full-thickness tear involving the anterior foot plate of the supraspinatus at its attachment site. 2. There are AC joint degenerative changes causing mass effect on the supraspinatus and could be a cause for impingement.

An MRI of the claimant's left shoulder was also taken on July 31, 2025:

> History: Left shoulder pain[.]…
> Impression: 1. There is a 1.5 cm multilobulated paravertebral cyst adjacent to the anterior superior margin of the glenoid and an associated labral tear cannot be excluded.
> 2. There are AC joint degenerative changes which could be a cause for impingement.

Dr. Benafield reported on August 13, 2025:

> Patient seen in follow-up after the MRI of the bilateral shoulders. The right 1 showed a full-thickness rotator cuff tear of the supraspinatus as well as AC joint arthritis. The left one showed a paralabral cyst anterior-inferior labrum with a probable labral tear [and] AC joint arthritis….
> I discussed with the patient regarding his MRI results. We discussed the full-thickness rotator cuff tear and how that usually take (sic) surgery to make the pain go away and restore strength. We discussed his left shoulder and how the most frequent treatment for that is [an] evacuation of the labral cyst and the repair of the labrum. The patient is not super happy with this as he is very busy in his business and cannot take time off presently. He will have to plan out when he does either of these surgeries. He desired corticosteroid injections to help with the pain today and would like to talk about it with his wife and then call back to schedule probably the right rotator cuff repair. This was reasonable and he tolerated the injections well. Will wait to hear from them.

A pre-hearing order was filed on November 21, 2025. The claimant contended that he "sustained a compensable bilateral shoulder injury on November 8, 2024, while tiling a shower in Fayetteville, Arkansas. The claimant contends that he is owed medical benefits as a result of his bilateral shoulder injury. Due to controversion of entitled benefits, the respondents are obligated to pay one half of the claimant's attorney's fees.

Claimant reserves the right to raise additional contentions at the hearing of this matter."

The parties stipulated that the respondents "have controverted the claim in its entirety." The respondents contended, "The claimant did not sustain a compensable injury as defined under the Arkansas Workers' Compensation Act for which he is entitled to benefits."

The parties agreed to litigate the following issues:

> 1. Whether the claimant sustained a compensable injury on November 8, 2024.
> 2. If compensable, compensation rates.
> 3. Whether the claimant is entitled to medical expenses. The parties reserve all other issues.

A hearing was held on January 22, 2026. The claimant testified that he had undergone right shoulder surgery on December 22, 2025. An administrative law judge filed an opinion on March 26, 2026. The administrative law judge found that the claimant proved he sustained a compensable injury to his right shoulder and left shoulder. The administrative law judge awarded medical treatment. The respondents appeal to the Full Commission.

II. ADJUDICATION

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[.]

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)(A)(i)(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).

It is the duty of the Full Commission to enter findings in accordance with the preponderance of the evidence and not on whether there is substantial evidence to support an administrative law judge's findings. *Roberts v. Leo Levi Hospital*, 8 Ark. App. 184, 649 S.W.2d 402 (1983). The Full Commission reviews an administrative law judge's opinion *de novo*, and it is the duty of the Full Commission to conduct its own fact-finding independent of that done by an administrative law judge. *Crawford v. Pace Indus.*, 55 Ark. App. 60, 929 S.W.2d 727 (1996). The Full Commission enters its own findings in accordance with the preponderance of the

evidence. *Tyson Foods, Inc. v. Watkins*, 31 Ark. App. 230, 792 S.W.2d 348 (1990). An administrative law judge's credibility determination is not binding on the Full Commission. *Roberts, supra*.

An administrative law judge found in the present matter, "2. Claimant has met his burden of proving that he suffered a compensable injury to his right and left shoulder on November 8, 2024, and is entitled to reasonable and necessary medical treatment for those injuries as recommended by his treating physicians." The Full Commission finds that the claimant did not prove by a preponderance of the evidence that he sustained a compensable injury to his right shoulder or left shoulder.

As we have discussed, the claimant testified that he was the sole owner of the respondent-employer, Rodney DeHaven Tile. The record indicates that the claimant had previously complained of right shoulder pain beginning in about 2021. The claimant treated at Community Physicians Group in October 2022 for "acute pain of right shoulder." The claimant stated at Community Physicians Group that he had injured his right shoulder a year earlier as the result of lifting a heavy bag of trash. The claimant testified that he received a steroid injection in 2022 and did not suffer from additional shoulder problems.

The parties stipulated that the employee-employer-carrier relationship existed on November 8, 2024. The claimant testified that he

injured his right shoulder and left shoulder while installing tile in a bathroom. The claimant testified that he lifted both arms over his head while trying to install the tile, but that he slipped and fell backwards. The claimant testified, "I felt a jerk and a popping in both shoulders, right and left."

The Full Commission is constrained to find that the claimant was not a credible witness. The medical evidence does not corroborate the claimant's contention that he felt a bilateral "pop" in his shoulders as the result of a work-related specific incident. The claimant informed Dr. Youmans on November 12, 2024 that he had been complaining of right shoulder pain "x couple weeks." Although he reported that the claimant's pain was purportedly "Aggrivated (sic) by work," Dr. Youmans did not describe an accidental injury occurring on or about November 8, 2024. Dr. Youmans' assessment included "1. Subacromial bursitis of right shoulder joint." The evidence does not demonstrate that the assessment of "Subacromial bursitis" was causally related to an injury allegedly occurring on November 8, 2024.

Pursuant to Dr. Youmans' referral, Dr. Benafield began treating the claimant on November 26, 2024. The claimant did not inform Dr. Benafield that there had been an accidental injury on November 8, 2024. To the contrary, Dr. Benafield reported, "He has had bilateral shoulder pain for the past 2 months pretty bad off and on previously. It is worse on the right than

the left." Dr. Benafield opined that the claimant's history and exam were "consistent with impingement syndrome of the shoulders bilaterally." The evidence does not demonstrate that Dr. Benafield's assessment of bilateral "impingement syndrome" was causally related to an alleged accidental injury on November 8, 2024. The claimant continued to follow up with Dr. Benafield but did not report an accidental injury involving the right shoulder or left shoulder. Nor did the claimant inform the physical therapist that an injury had purportedly occurred on November 8, 2024.

MRIs were taken of the claimant's right shoulder and left shoulder on July 31, 2025. The history at that time did not relate an injury occurring on November 8, 2024. Instead, the history showed "Right shoulder pain" and "Left shoulder pain." The diagnostic testing revealed a full-thickness tear on the right and a paravertebral cyst on the left. Dr. Benafield thereafter recommended surgery, and the claimant contended that he had sustained a work-related bilateral shoulder injury. The claimant testified that he underwent right shoulder surgery on December 22, 2025.

The Full Commission finds that the claimant did not prove by a preponderance of the evidence that he sustained a compensable injury. The claimant did not prove that he sustained an accidental injury causing internal or external physical harm to his body, *i.e.*, his right shoulder or left shoulder. The claimant did not prove that he sustained an injury which

arose out of and in the course of employment, required medical services, or resulted in disability. The claimant did not prove that he sustained an injury which was caused by a specific incident or was identifiable by time and place of occurrence on or about November 8, 2024. *See Edens v. Superior Marble & Glass*, 346 Ark. 487, 58 S.W.3d 369 (2001). Nor does the evidence demonstrate that the bilateral shoulder abnormalities shown on diagnostic testing were causally related to an accident allegedly occurring on or about November 8, 2024. *See Ford v. Chemipulp Process, Inc.*, 63 Ark. App. 260, 977 S.W.2d 5 (1998).

After reviewing the entire record *de novo*, the Full Commission reverses the administrative law judge's finding that the claimant proved he sustained a compensable injury to his right shoulder and left shoulder. This claim is respectfully denied and dismissed.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

MICHAEL R. MAYTON, Commissioner

Commissioner Willhite concurs.

CONCURRING OPINION

After my *de novo* review of the record, I concur with the majority opinion finding that the Claimant failed to prove by a preponderance of the evidence that he sustained a compensable injury to his right or left shoulder. I write separately for the benefit of the Claimant.

To establish a compensable injury by a preponderance of the evidence the Claimant must prove: (1) an injury arising out of and in the course of employment; (2) that 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, as defined in Ark. Code Ann. §11-9-102(16), establishing the injury; and (4) that the injury was caused by a specific and identifiable time and place of occurrence. A compensable injury must be established by medical evidence supported by objective findings and medical opinions addressing compensability must be stated within a degree of medical certainty. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002).

The Claimant suffered an injury to his right and left shoulder during his course of employment which required medical services. However, there is insufficient proof in the record that Claimant could identify when the injury to his right and left shoulder took place or where it occurred.

For the foregoing reasons, I concur with the majority but write separately for the benefit of the Claimant.

_____
M. SCOTT WILLHITE, Commissioner