

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **H504776**

STEVEN L HEVENER, EMPLOYEE	CLAIMANT
DOLLAR GENERAL STORE, EMPLOYER	RESPONDENT
SEDGWICK CLAIMS MANAGEMENT SERVICES INC., CARRIER/TPA	RESPONDENT

OPINION FILED **JUNE 18, 2026**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF in Fort Smith, Sebastian County, Arkansas.

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

Respondents represented by ERIN RAMBO, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

On May 18, 2026, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on April 2, 2026, and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked as Commission's Exhibit #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 employee/employer/carrier relationship existed on July 12, 2025.
3. The respondents have controverted the file in its entirety.

By agreement of the parties, the issues to be litigated and resolved at the forthcoming hearing were limited to the following:

1. Compensability of right shoulder injury.
2. If compensable, compensation rate.

3. If compensable, whether claimant is entitled to temporary total disability benefits, and medical benefits.

4. Attorney's fees.

All other issues are reserved by the parties.

The claimant contends that "Surgery has been recommended regarding his right shoulder but that the respondents have failed to authorize said surgery and that therefore the Commission should order them to authorize surgery that has been recommended by Dr. Trent Johnson. The claimant contends that he is entitled to temporary disability benefits as supported by the medical evidence. The claimant contends that his attorney is entitled to an appropriate attorney's fee."

The respondents contend that "They controverted the claim on the basis that claimant's shoulder problem is not related to his employment with Dollar General."

From a review of the entire record including 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 a pre-hearing conference conducted on April 2, 2026, and contained in a pre-hearing order filed on that same date are hereby accepted as fact.

2. Claimant has failed to prove by a preponderance of the evidence that he suffered a compensable injury on July 12, 2025.

HEARING TESTIMONY

Claimant was the only witness to testify at the hearing. He testified that on July 12, 2025, he was mopping at Dollar General with a commercial mop and said that he felt something tearing in his

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right shoulder and heard a pop at that time. He did not mention this to anyone until the store closed when he told someone named Cheyenne as he was giving her a ride home.

In August 2024, claimant underwent surgery on that same shoulder. Claimant testified that following that surgery, his shoulder was fine. He had forgotten about follow-up visits with his doctor after surgery and about telling doctors that he had popping in his shoulder prior to the July 12, 2025, alleged accident. Claimant said that he did not keep an appointment with his doctor in June 2025 because he was not having problems with his shoulder at that time. Claimant said he had been fully released to return to work following his 2024 surgery.

Claimant described the method in which he was mopping as “an infinity-shaped motion” which is similar to the number eight. He testified that particular motion puts stress on his shoulders, as he used his entire top portion of his torso.

On cross-examination, claimant stated that he was not sure what Dr. Trent Johnson did during the surgery in August 2024. Claimant agreed that he could not lift his right arm away from his body before Dr. Johnson performed surgery. However, claimant had testified at his deposition that he had never experienced any significant functional inability to move his right arm. Claimant also conceded that there were reports in his medical records regarding his right shoulder popping prior to July 12, 2025. Claimant had reported his popping to his physical therapist and also to Dr. Johnson following the August 2024 surgery. The physical therapy session notes from November 20, 2024, reflect that his shoulder popped three times during that session. When asked why claimant stated in his deposition that his shoulder had never popped like it did on July 12, 2025, claimant said that he forgot about that popping. The following exchange took place:

Q. [By Ms. Rambo] Okay. So, after you were discharged from therapy in December of 2024, you did continue having issues with your right shoulder, didn't you?

A. [Claimant] A popping.

Q. So, you did continue having popping?

A. And I didn't remember that. It's just the medical records that I was made aware of that I had actually said that.

Q. Okay. But when you told me when I took your deposition in March that your shoulder had completely healed after you finished physical therapy; is that correct?

A. I don't know if that is the exact wording, but okay.

THE COURT: Do you have a page?

MS. RAMBO: That would be page 24. It would be...

THE COURT: Starting on page - on line 20 there. At least I assume that is what you are looking at?

MS. RAMBO: Yes.

THE COURT: And her question was, did you testify to that at your deposition?

A. (Witness continues.) That is what I said.

Q. (Ms. Rambo continues.) So, you testified that your shoulder had completely healed. And, in fact, you said, "it was a hundred percent on physical therapy." Correct?

A. Yes, ma'am.

Q. Now, despite your right shoulder pain being bad enough to get two injections, you didn't recall that you got those injections when we were talking about it during your deposition, right?

A. Yes, ma'am.

Q. Okay. In fact, you know, when I asked you whether you treated your right shoulder anywhere other than Mercy following your surgery, you testified that you didn't treat anything and that your right shoulder was good, didn't you?

A. Yes, ma'am.

Q. Okay. And it's still your testimony that you just did not recall that additional right shoulder treatment?

A. Yes, ma'am.

Q. Okay. Now, we talked about you had the two injections and you even had a three-month follow-up appointment scheduled with Dr. Johnson scheduled for June 12th of 2025, right?

A. Yes, ma'am.

Q. Okay. And your testimony today is that you did not go to that appointment and canceled it because your right shoulder was fine, right?

A. Yes, ma'am. I do believe that's what Dr. Johnson said I could do, if my shoulder stopped doing what it was doing, that I could cancel the appointment.

Q. Okay. Well, now, all of your right shoulder prior to July 12th of 2025, was billed to you and your personal health insurance, right?

A. Yes, ma'am.

Q. Okay. And everyone knows that medical expenses can, you know, escalate rather

quickly these days. Now, did you end up falling behind on payments to your occupational therapist at Mercy towards the end of 2024?

A. I don't recall that.

Q. Okay. I would like to point you to Respondents' exhibit, page 23, where it says that you were in debt in the amount of about \$1,476.00 at the end of your physical therapy.

THE COURT: She's talking right there where it says, "Self-pay."

A. (Witness continues.) Okay, I did not know about this.

Q. (Ms. Rambo continues.) Okay. So, did you have the money to pay the occupational therapist at the end of 2024?

A. I do believe we still had enough money to do that.

Q. Okay.

A. If I would have known about it, I would have paid it.

Q. Okay. Well, regardless of whether you meant to pay it or not, you were only working at Dollar General part-time when this alleged incident occurred, and you didn't have enough money for another surgery, did you?

A. No, ma'am.

Q. So, you decided to come up with a story and say that you had injured yourself while working at Dollar General because you didn't have enough money to pay for another surgery on your rotator cuff. Is that correct?

A. No, ma'am, because the insurance would have taken care of it. The insurance should have paid for that, as far as I know.

Q. For the physical therapist?

A. Yes, ma'am. (Tr.22-25)

On redirect examination, claimant testified that the only orthopedic surgeon to treat his shoulder regarding the 2024 problem was Dr. Trent Johnson. Dr. Johnson is also the only doctor who treated him regarding this alleged injury in July 2025.

REVIEW OF THE MEDICAL RECORDS

Claimant first presented with right shoulder complaints to APRN Soutnakhon Phandanouvong at River Valley Primary Care Services, who evaluated him on April 1, 2024. Claimant reported the pain in his right shoulder had been there for five days. (R.X.1)

An MRI performed on April 18, 2024, showed supraspinatus tendinopathy versus partial

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thickness tearing, AC joint arthropathy, and joint fluid. (R.X.1, p.3)

Claimant established care at Mercy Clinic Orthopedics River Valley on May 1, 2024. Examination showed mild weakness, tenderness over the bicipital area and AC joint, and negative instability testing. He was diagnosed with right shoulder pain with incomplete rotator cuff tear, given an injection, and referred to physical therapy. (R.X.1, p.4–6)

Therapy notes from June 2024 reflect ongoing treatment. Claimant reported 4–5/10 pain on June 12, 2024, and later that month reported lifting an air conditioner against instructions, resulting in increased pain. (R.X.1, p.9–16) At the June 26, 2024, session, claimant continued to report pain, weakness, and difficulty lifting his arm away from his body. Conservative management was deemed exhausted, and he was referred to Dr. Trent Johnson. (R.X.1, p.7–8)

Dr. Johnson evaluated claimant on August 1, 2024, documenting long-standing right shoulder pain with aching and throbbing, pain when lying on the shoulder, and moderate pain worse with activity. Examination showed pain about the AC joint and lateral cuff insertion, pain with Neer and Hawkins tests, and 4/5 abduction strength. Dr. Johnson diagnosed a partial rotator cuff tear with symptomatic AC joint arthrosis and recommended arthroscopy. (R.X.1, p.17–18)

On August 16, 2024, claimant underwent right shoulder arthroscopy. The operative report reflected a degenerative labral tear, mild biceps synovitis, a degenerative tear across the supraspinatus insertion measuring approximately 3 mm, and severe AC joint arthritis. (R.X.1, p.19–21)

Therapy notes after surgery reflect continued complaints. On September 17, 2024, claimant reported waking with severe pain and a loud pop after rolling over in bed. He reported additional popping and stiffness on September 26, 2024. By November 13, 2024, he described feeling his shoulder pulling out of socket while picking up a drinking cup. Therapy notes from November 20, 2024, reflect three popping episodes during a single session. (R.X.1, p.22–24) The December 3, 2024,

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therapy note reflects that claimant had returned to work and his arm had been painful since. (R.X.1, p.24)

Dr. Johnson saw claimant again on January 9, 2025, documenting claimant's continued anterior shoulder pain with extension, reaching behind his back, and reaching across his body. Examination showed point tenderness over the biceps tendon and bicipital groove and pain with O'Brien's test. Dr. Johnson diagnosed biceps tenosynovitis and administered a corticosteroid injection. (CL.X.1, p.1–2)

Claimant returned to see Dr. Johnson on March 13, 2025, reporting recurrent anterior shoulder pain, which he attributed to moving heavy carts at work. Dr. Johnson again diagnosed bicipital tenosynovitis and administered a second injection. (CL. X.1, p.3–4)

A follow-up appointment scheduled for June 12, 2025, was canceled by claimant via MyChart on June 8, 2025. (R. X.1, p.25)

Claimant was seen at Baptist Health Van Buren on July 15, 2025, reporting right shoulder pain that he said occurred while mopping at work. X-ray showed postoperative changes and mild degenerative findings, with no acute fracture. (CL.X.1, p.7–14) He returned to Baptist Health on July 22, 2025, reporting worsening pain and no additional injury. (CL.X. 1, p.15–19)

On July 23, 2025, claimant presented to Mercy Hospital Fort Smith, where the examination showed pain with active and passive abduction and external rotation. He was diagnosed with soft-tissue injury and referred to Dr. Johnson. (CL.X.1, p.20–52)

Dr. Johnson saw claimant on August 5, 2025, noting a three-week history of acute onset right shoulder pain beginning when claimant felt a pop while preparing to mop. Examination revealed tenderness at the lateral cuff insertion, 4/5 strength with abduction and external rotation, and pain with Neer, Hawkins, and Jobe tests. Dr. Johnson assessed a right shoulder rotator cuff tear, ordered

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an MRI, and imposed restrictions. (CL.X.1, p.53–54)

The MRI performed on September 10, 2025, showed tendinosis with low-grade articular surface tearing involving less than 30% of tendon thickness, expected postoperative changes, and mild degenerative fraying. (CL.X.1, p.55–56) A second review of the same MRI by Dr. Ezekiel Shotts of Authentic4D found moderate supraspinatus tendinopathy with a low-grade partial tear, mild infraspinatus tendinopathy, and no definite acute injury. (R.X.1, p.29–30)

Dr. Johnson reviewed the MRI on September 19, 2025, noting increased signal consistent with prior findings and no frank tear. He diagnosed right shoulder rotator cuff strain, administered a subacromial injection, and imposed restrictions. (CL.X.1, p.57–58)

Claimant returned on October 17, 2025, reporting that the prior injection initially helped but then stopped providing relief. Dr. Johnson again diagnosed right shoulder rotator cuff strain and administered a repeat injection. (CL.X.1, p.59–60)

When these conservative measures did not provide claimant with relief, Dr. Johnson recommended right shoulder arthroscopy with debridement versus repair and possible biceps tenodesis, which was performed on January 16, 2026. The pre- and postoperative diagnosis was incomplete tear of the right rotator cuff, unspecified whether traumatic. (CL.X1, p.61–64)

ADJUDICATION

Claimant alleged he hurt his shoulder at work on July 12, 2025, while mopping the floor. 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. If a claimant fails to establish by a preponderance of the evidence any of the above elements, compensation must be denied. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997). The “preponderance of the evidence” standard means evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415.

As claimant did not suffer an obvious injury, such as one that left him bleeding or unconscious, his credibility about what happened is paramount to establishing the existence of a work-related injury. Questions concerning the credibility of witnesses and the weight to be given to their testimony are within the exclusive province of the Commission. *Arkansas Dep’t of Health v. Williams*, 43 Ark. App. 169, 863 S.W.2d 583 (1993). The 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 that it deems worthy of belief. *Jordan v. Tyson Foods, Inc.*, 51 Ark. App. 100, 911 S.W.2d 593 (1995).

In this case, there were simply too many inconsistencies and convenient memory lapses for me to find claimant credible. The excerpts from the testimony set out above illustrate multiple contradictions between claimant’s deposition testimony, his hearing testimony, and the contemporaneous medical records. Having observed claimant’s demeanor and considering the inconsistencies demonstrated in the record, I do not find claimant to be a reliable witness. Because claimant’s testimony is the only evidence that an injury occurred on July 12, 2025, and because that testimony is not credible, he has failed to meet his burden of proving a compensable injury by a preponderance of the evidence.

However, even if I accepted at face value claimant’s testimony that he injured his shoulder while mopping on July 12, 2025, he did not provide objective medical evidence of a new injury to his

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right shoulder. A compensable injury must be established by medical evidence supported by objective findings, and those findings must demonstrate a new injury rather than a continuation or recurrence of a preexisting condition.

A comparison of the April 18, 2024, MRI and the September 10, 2025, MRI shows that the findings in 2025 are materially the same as those documented before claimant's August 2024 surgery. The 2024 MRI demonstrated a partial-thickness supraspinatus tear, tendinosis, and degenerative changes. The 2025 MRI, interpreted by Dr. Jarrod Dale, again showed a low-grade partial-thickness supraspinatus tear, tendinosis, and postoperative changes, and Dr. Dale specifically described the findings as chronic with no definite acute injury. A second interpretation by Dr. Ezekiel Shotts likewise did not identify any new traumatic pathology. The 2025 MRI does not show any acute edema, fluid collection, full-thickness tearing, or other objective evidence of a new injury.

The fact that claimant underwent shoulder surgery in August 2024 does not establish that the 2025 MRI reflects a new injury. Dr. Johnson's operative report from August 2024 shows that the procedure addressed fraying and degenerative changes but did not repair the partial-thickness supraspinatus tear. That tear remained present after the surgery, and the postoperative therapy notes from September through November 2024 document continued pain, popping, and functional limitations. Dr. Johnson's January 9, 2025, follow-up note likewise reflects ongoing anterior shoulder pain, point tenderness, and pain with O'Brien's testing. These findings predate the alleged July 2025 incident and are consistent with the results of the September 2025 MRI.¹

In short, the objective medical evidence shows a chronic, postoperative shoulder with

¹ Claimant argued that he canceled his June appointment because he was not having any issues with his shoulder. The medical record does not support that assertion. The April 18, 2024, MRI documented a partial-thickness supraspinatus tear and tendinosis, and Dr. Johnson's August 2024 surgery did not repair that tear. Conservative measures such as injections could not resolve that underlying pathology. In light of these ongoing conditions, I do not find claimant's testimony that he canceled the June 2025 visit with Dr. Johnson because he was having no issues with his shoulder to be credible.

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persistent symptoms and a partial-thickness tear that existed before July 12, 2025. It does not show a new injury caused by a specific incident at work. Because claimant has not established the existence of a new injury through objective medical findings, he has failed to meet this requirement for compensability.

ORDER

Claimant has failed to meet his burden of proving by a preponderance of the evidence that he suffered a compensable injury to his right shoulder on or about July 12, 2025. Therefore, his claim for compensation benefits is hereby denied and dismissed.

Respondent is responsible for paying the court reporter her charges for preparation of the hearing transcript.

IT IS SO ORDERED.

JOSEPH C. SELF
ADMINISTRATIVE LAW JUDGE