

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G807143

CARLOS REECE
EMPLOYEE

CLAIMANT

DOLLAR TREE STORES, INC.,
EMPLOYER

RESPONDENT

GALLAGHER BASSETT SERVICES, INC.,
THIRD PART ADMINISTATOR

RESPONDENT

OPINION FILED AUGUST 11, 2021

Hearing conducted before Administrative Law Judge Chandra L. Black, in Camden, Ouachita County, Arkansas.

Claimant, appearing pro se.

Respondents represented by Mr. Randy P. Murphy, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled claim on June 3, 2021, in Camden, Arkansas. A Prehearing Telephone Conference was held in this matter on March 24, 2021. A Prehearing Order was entered on that same day. This Prehearing Order set forth the stipulations offered by the parties, their contentions, and the issues to be litigated.

At the Prehearing Telephone Conference, or at the start of the hearing, the parties agreed to the following stipulations:

Stipulations

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

2. The employee-employer-insurance carrier relationship existed on September 29, 2018.
3. The Claimant's average weekly wage at the time of his alleged work injury was \$346.00.
4. The Respondents have controverted this claim in its entirety.
5. All issues not litigated herein are reserved under the Arkansas Workers'

Compensation Act.

Issues

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

1. Whether the Claimant sustained a compensable back injury which resulted in severe depression and severe anxiety disorder.
2. Whether the Claimant is entitled to reasonable and necessary medical treatment.
3. Whether the Claimant is entitled to temporary total disability compensation from the second week in October 2018, to a date yet to be determined.

Contentions

The parties' respective contentions are set forth below:

Claimant:

The Claimant essentially contends that he sustained a compensable back injury on September 29, 2018 in the course and scope of his employment with Dollar Tree Stores, Inc., which resulted in severe depression and anxiety disorders. Additionally, the Claimant contends

that he is entitled to reasonable and necessary medical treatment and temporary total disability compensation due to all of these alleged injuries, beginning the second week in October 2018, until a date yet to be determined.

Respondents:

Respondents contend that the Claimant did not sustain an injury within the course and scope of his employment.

Summary of Evidence

The record consists of the hearing transcript of June 3, 2021, and the exhibits contained therein. Specifically, the following exhibits have been made a part of the record: Commission's Exhibit #1 includes the Commission's Prehearing Order of March 24, 2021, and the parties' respective response to the Prehearing Questionnaire. The Claimant introduced into evidence a Medical Packet, consisting of 26 numbered pages. These have been marked as Claimant's Exhibit 1. Respondents introduced into evidence Respondents' Medical Records Index. It consists of eight pages, which was marked Respondents' Exhibit 1. Respondents' Exhibit 2 consists of 50 numbered pages of Criminal Offenses by Carlos Reece.

Witnesses

The following witnesses testified during the hearing: Mr. Frederics Smith and the Claimant, Mr. Carlos Reece.

Based on my review of the record as a whole, to include the aforementioned documentary evidence, other matters properly before the Commission, and after having had an opportunity to

hear the testimony of the witnesses and see their demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. I hereby accept the aforementioned stipulations as fact.
3. The medical report that the Claimant submitted to the Commission following the June 3, 2021 hearing, which included eight pages of medical records from UAMS has been excluded from admission into evidence.
4. The Claimant failed to prove by a preponderance of the credible evidence that he sustained a compensable back injury in the course and scope his employment with the Respondents-Dollar Tree Stores, Incorporated (referred to herein as "Dollar Tree) on September 29, 2018.
5. All other issues relating to the alleged compensable consequence injuries (severe depression and anxiety disorders), temporary total disability compensation, and reasonably necessary medical treatment have been rendered moot and not discussed herein this Opinion.

Testimony

Frederics Smith

Mr. Smith worked as the assistant store manager for Dollar Tree at the time of the Claimant's alleged injury of September 29, 2018. According to Mr. Smith, his primary employment duties entailed unloading merchandise from trucks. Mr. Smith essentially testified that the Claimant worked under his supervision him performing these same employment duties.

He testified that the Claimant was one of his best employees. According to Mr. Smith, they would be short of workers on Saturdays, but the Claimant would always come in to work. He maintained that at one point, the Claimant was being considered for a managerial position.

Mr. Smith testified that the Claimant told them at the beginning of the week that his back was hurting. Mr. Smith maintained that she (the store manager) never believed the employees working under her supervision and always had an attitude.

Regarding the alleged incident, Mr. Smith testified that on September 28, 2018, the Claimant helped him to unload a truck. He testified that the next day, on the morning of September 29, 2018, around 5:00 a.m., he went to pick the Claimant up for work. Mr. Smith testified that the Claimant came to the door “real slow.” According to Smith, the Claimant told him, he had hurt his back.

On cross examination, Mr. Smith testified that he worked for Dollar Tree from 2016 until 2018. As of the date of the hearing, Mr. Smith was starting his own business, a food truck. After leaving Dollar Tree, Mr. Smith performed construction-type work. Mr. Smith maintained that he does not recall the name of the construction company that he worked for because he was paid “under the table.” He confirmed that his employment with Dollar Tree ended due to allegations of sexual harassment of a female.

Mr. Smith admitted that he has been charged and/or convicted of four felonies. His first charge was breaking and entering. The second charge was for possession and the attempted sell of cocaine. Mr. Smith admitted that his third charge happened approximately five years ago and was for an assault on a female.

Upon being question by the Commission, Mr. Smith testified that he was present when the Claimant injured his back. According to Mr. Smith, they were unloading boxes of bleach when the Claimant's alleged back injury occurred. Mr. Smith testified that they were supposed to have three people working, but it was just the two of them working. According to Mr. Smith, the Claimant started off saying his back was hurting. He testified that the Claimant picked up a box containing bleach and could not get back up. Mr. Smith testified that after the Claimant hurt his back, he instructed the Claimant to sit down and take a break. He maintained that the Claimant told him he could not do any more work, so he unloaded the remaining product from the truck by himself.

He admitted that prior to September 29, 2018, the Claimant always complained about back problems. Mr. Smith confirmed that the Claimant complained of back problems since he has known him. Under further questioning, Mr. Smith maintained that the Claimant did not have back problems when he hired him. However, Mr. Smith confirmed that he learned later as the Claimant worked unloading the trucks that he had back problems.

Carlos Reece/the Claimant

The Claimant testified that he has some college experience. He went to work for Dollar Tree around the end of April or the beginning of May 2018. Prior to that, the Claimant worked as a telemarketer for Farmers Insurance Company, in Little Rock. He worked for his mother. The Claimant testified that between his employment with Famers Insurance and Dollar Tree, he was in prison. He was not sure of his job title at Dollar Tree. However, the Claimant essentially testified

that his employment duties primarily entailed loading and unloading the trucks. He also ran the register and did some cleaning.

With respect to the Claimant's alleged injury of September 29, 2018, he gave the following explanation: "In the process of my working and unloading boxes, I got to a point where my back wouldn't no longer sustain any weight, and I could no longer lift anything." The Claimant went on to explain:

A The last box that I remember trying to unload was a box of bleach, and in each one of the boxes, there were eight gallon jugs in each box, so the weight is pretty tremendous for a guy my size, but honestly Judge, I was actually Honestly, Judge, I was happy to be working. I just got out of the penitentiary, and like I said, I was trying to get myself I left Little Rock and didn't want to live in Little Rock no more because I knew I had a past there and I wanted to come here and get my things together, man, so I was the happiest guy working. I was a happy guy working, so I would actually probably do Go above and beyond, I think, what was expected from me, but the last thing I remember doing was lifting a bleach box and my back gave out and wouldn't allow me to lift anymore.

The Claimant maintained that he reported the incident to management-a person named Charlanda. He does not recall her last name. According to the Claimant, he told Charlanda his back was hurting, and he was not going to be able to unload the truck anymore. The Claimant testified that she instructed him to work the register.

Under further questioning, the Claimant testified:

Q So you just told her your back was hurting. Did you tell her you sustained an injury to your back?

A At the time, I didn't know what was going on with my back. At the time, I didn't know exactly what was going on with my back. I just knew that I was in a lot of pain and I could not lift anymore, but I didn't know, at the time, I was injured.

He essentially testified that he injured his back on the evening of September 28, 2018. However, the Claimant maintained that he completed his shift. According to Claimant, after he finished working, he went home with “back pains,” and from there he went to the doctor. In fact, the Claimant specifically testified that he injured his back between 5:00 p.m. and 7:00 p.m.

The Claimant testified that he sought treatment for his alleged back injury from Dr. Braden, but he was not in the office. He testified that Dr. Braden’s “secretary” did some tests and scheduled an appointment for him to see Dr. Braden. According to the Claimant, he was diagnosed with sciatica at UAMS. The Claimant was seen there on December 21, 2018. He testified that they ran tests and gave him an injection and some pills. Per the Claimant, they recommended he get some physical therapy and do some home exercises.

On November 18, 2018, the Claimant sought care from his mental health doctor. He also treated with a therapist at South Arkansas Regional Health Center, Ms. Amber Blackmon Lauderdale. However, the Claimant testified that when he left the penitentiary, they told him to see a counselor. It appears that the Claimant sought mental health care after his release.

The Claimant testified that he has “back pains” pretty much every day. He does personal calisthenics for his back. According to the Claimant, he tries to stay away from the pharmaceutical and use a more integrated holistic approach of exercise and diet, along with over-the-counter medicines. According to the Claimant, Dr. Braden sent him for thirty (30) days of physical therapy. However, the Claimant maintained that he continues with back pain. Therefore, Dr. Braden ordered an additional thirty (30) days of therapy, which he completed. He confirmed that

the therapy helped to relax him. According to the Claimant, his last round of physical therapy occurred in March of 2021.

As of the date of the hearing, the Claimant continued seeing a mental health therapist. Per the Claimant, his need for mental health care relates to his back and work situation. The Claimant explained that he has not returned to work since September 30, 2018 because he has not been mentally stable enough to deal with the pressure and/or stress. According to the Claimant just to think about the process brings on anxiety. The Claimant maintained that the back issue caused his depression and anxiety more than him being incarcerated. He further explained that his back issue will not let him to stand up for the amount of time they had him standing at the register. The Claimant further testified that he is definitely not able to lift any boxes.

He confirmed that he filed for unemployment benefits. The Claimant drew benefits for four or five months. He verified that he put on that document he was “ready, willing, and able to work.” The Claimant maintained that at that time, he did not have a disability. However, he admitted to drawing unemployment benefits after leaving his employment with Dollar Tree. According to the Claimant, he was not diagnosed with anxiety and depression until November 2018. The Claimant confirmed that no further treatment has been recommended for his back. Also, in 2020, the Claimant drew unemployment benefits. He denied receiving said benefits in 2021.

On cross examination, the Claimant admitted that he testified during his deposition that he had some episodes over the years of having some back problems, for which he sought medical

treatment. He confirmed that he has had a couple of motor vehicle accidents. One of the accidents involved his back. The Claimant further confirmed that Mr. Smith testified correctly about him having back problems when he went to work for Dollar Tree. However, the Claimant was unsure if he told the doctors he had some previous back problems.

Per a medical record dated October 14, 2020, the Claimant underwent initial evaluation for physical therapy. At that time, the Claimant reported an onset date of his symptoms as having started a month ago-September 14, 2020. This record also described the Claimant's condition as being chronic. He also agreed to reporting at that time, he had an exacerbation of back pain which began approximately one month ago due to unknown reasons. The Claimant denied doing anything strenuous. According to the Claimant, his back just started hurting.

He denied drawing unemployment benefits in 2021. According to the Claimant, his benefits stopped in 2020. Under further questioning, the Claimant admitted that he received them from March or April until December due to the Covid-19 pandemic. He admitted that he was in prison for seven months in 2019 due to a parole violation. However, the Claimant denied drawing unemployment benefits during this period of time.

The Claimant admitted that he is not looking for work because he is not mentally stable. He last treated with his therapist, Amber Blackmon Lauderdale, on May 2, 2019. She wrote that the Claimant had been giving outpatient therapy since November 20, 2018. According to Ms. Lauderdale's report, she diagnosed the Claimant with depressive disorder recurrent and adjustment disorder. Ultimately, the Claimant agreed that his anxiety was caused by life situations, loss of

employment, financial problems, and difficulty finding work to support himself. The Claimant confirmed that he had not physically gone out to look for work at that point. However, the Claimant explained that he does everything online.

With respect to his deposition testimony, the Claimant was asked if he gave an injury date of September 29, 2018. His reply was “that morning..... it was about 4:00 in the morning, I could not get out of the bed because it was hurting so bad.”

Under further questioning, the Claimant testified:

Q What day were you actually injured? What are you claiming?

A The 28th. The day before, I don't remember the exact date. Let me say that, because I don't want to say I know that I went to the doctor the next day. My initial doctor's visit was on the 1st. I couldn't do nothing. I had to go to the doctor and that was on the 1st, so I had to get the 28th is probably the day I got injured. That night, I went home. That morning I couldn't get up, so that morning I went to the doctor, so it was either the 28th or the 29th. I'm not a hundred percent sure.

Q You can't remember the date? Do you know what time of day it was?

A It was in the evening time.

Q In your deposition, you told me you didn't know whether it was morning or evening.

A I didn't. I still don't. I'm still not a hundred percent sure. Still. I said that earlier today. I said I don't know. We'd do trucks in the morning, early morning. I really don't know. I'm doing my best to remember. This was three years ago, so I'm doing my best to remember, but a lot of stuff you're asking me, I don't remember. Honest. It's three years ago. I have no idea.

The Claimant admitted to testifying during his deposition he was doing his usual routine duties when his injury occurred. He also testified that the people that were working with him had

left. The Claimant confirmed that he stated during his deposition testimony that he was unloading the truck by himself.

Specifically, the Claimant testified:

Q Okay. so Frederics was not there when you were injured?

A That's incorrect because he was the Assistant Manager, so a lot of times he had to go to the front to do Assistant Manager stuff.....

The Claimant essentially testified that what he stated in his deposition is correct. He explained: "..... But I'm not saying I was there by myself the whole time. There was the Assistant Manager who had other things to do, so he wasn't there all the time, so he would leave and go do stuff, so it'd be just me." The Claimant admitted that he did not mention in his deposition anything about Frederics or anyone else being present when he was injured. He agreed he testified that he was working alone when his injury happened.

He admitted that no doctor ever took him off work. The Claimant went to UAMS on December 21, 2018. Per this report, the Claimant reported; "States he has recently been lifting boxes with repetitive bending and twisting for the last couple of weeks. Worsening pain for the last weeks." The Claimant admitted that he has treated over the years for back complaints.

Upon being questioned by the Commission, the Claimant admitted that his motor vehicle accidents happened in 2005 and 2012.

On recross examination, the Claimant admitted that he saw Dr. Springer for his back years ago. He admitted that in 2016, while incarcerated he slipped and fell in the shower. The Claimant received medical treatment for this injury.

Medical Records

The Claimant sought treatment from Ouachita Valley Family Clinic under the care of Melanie Hearnberger-McGuire, APRN, on October 1, 2018. His chief complaint was back pain. McGuire wrote, in relevant part:

Back Pain

This is a new problem. The current episode started 1 to 4 weeks ago. The problem occurs constantly. The problem is unchanged. The pain is present in the lumbar spine. The quality of the pain is described as stabbing. The pain does not radiate. The pain is at a severity of 6/10. The pain is moderate. The pain is the same all the time. The symptoms are aggravated by bending, standing, position, stress, and sitting. Stiffness is present all day. Pertinent negative include no abdominal pain, chest pain, dysuria, fever, headaches, leg pain, numbness, perianal numbness, weakness or weight loss. He has tried nothing for the symptoms. The treatment provided no relief.

Hematuria

This is a new problem. The current episode started more than 1 month ago. The problem occurs intermittently. The problem has been unchanged. Pertinent negative include no abdominal pain, chest pain, congestion, fever, headaches, joint swelling, nausea, neck pain, numbness, vomiting or weakness. Nothing aggravates the symptoms. He has tried nothing for the symptoms. The treatment provided no relief.

At that time, the Claimant was assessed with “Lumbar paraspinal muscle spasm & Acute midline low back pain without sciatica,” for which physical therapy and a medication regimen was ordered.

On November 13, 2018, the Claimant sought medical treatment from Ouachita Valley Family Clinic under the care of Dr. Lawrence F Braden. It appears that the Claimant was assessed with “Spasm of lumbar paraspinal muscle.” Dr. Braden discussed ways to fix this through exercise. He noted that it takes about 6 to 8 weeks to heal. According to this medical note, Dr. Braden injected the Claimant with Celestone and Marcaine and gave him a prescription for a muscle relaxer.

The Claimant sought treatment from UAMS on December 21, 2018 due to lower back pain for three months. The Claimant stated that he initially injured his back at work and had previously undergone a CT scan to his lower back. He further stated that he recently had been lifting boxes with repetitive bending, twisting for last couple of weeks, with worsening pain for the last week.

The Claimant underwent evaluation at Precision One Therapy, in Camden. Per a Physical Therapy Initial Examination report dated October 14, 2020, the Claimant reported that he had issues with back for approximately two years. He further reported that for unknown reasons he had an exacerbation of pain to back, which began approximately one month ago. The Claimant was referred to physical therapy by his primary care physician.

Adjudication

A. Evidentiary

Ark. Code Ann. §11-9-705(Repl. 2012) provides:

(c) INTRODUCTION OF EVIDENCE.

(1)(A) All oral evidence or documentary evidence shall be presented to the designated representative of the commission at the initial hearing on a controverted claim, which evidence shall be stenographically reported.

(B) Each party shall present all evidence at the initial hearing.

(C)(i) Further hearings for the purpose of introducing additional evidence will be granted only at the discretion of the hearing officer or commission.

In order for the Commission to allow submission of additional evidence, the movant must demonstrate that the new evidence is relevant; that the new evidence is not cumulative; that the new evidence would change the result of the case; and that the movant was diligent in presenting evidence to the Commission. Long v. Wal-Mart Stores, Inc., 98 Ark. App. 70, 250 S.W.3d 263 (2007).

In the present matter, it appears that the Claimant seeks to admit into evidence eight pages of medical exhibits from a medical evaluation that he underwent at UAMS on December 21, 2018. He mailed a copy of this report to the Commission on June 14, 2021 subsequent to the June 3, 2021 hearing.

The Commission provided the Respondents' attorney with a copy of these medical records via e-mail. Pursuant to an e-mail dated, June 14, 2021, counsel for the Respondents wrote, in relevant part: "The medical appears to be a duplicate of the UAMS records that the Claimant introduced at the hearing. So the proposed exhibits are not only late but redundant."

In the present matter, this medical report in question existed at the time of the June 3, 2021 hearing. This medical report was also introduced into evidence at the time of the hearing, except for the last page of this report-page 8. As such, I find that the first seven pages of this report is cumulative. Moreover, my review of this report shows that the last page of said report contains medical information that is irrelevant/unrelated to this workers' compensation claim.

Under these circumstances, I find that the medical report of December 21, 2018 should be, and is hereby excluded from being admitted into evidence and has not been considered herein this Opinion.

B. Compensability

The Claimant has asserted a compensable back injury on September 29, 2018 while working for Dollar Tree, while unloading merchandise (boxes of bleach) from a truck. The Respondents contend that the Claimant did not injure his back in the course of his employment

with Dollar Tree.

"Compensable injury" means an accidental injury causing 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. Ark. Code Ann. § 11-9-102(4)(A)(i) (Repl. 2012). A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D) (Repl. 2012). The Claimant must prove by a preponderance of the evidence that he sustained a compensable injury. Ark. Code Ann. § 11-9-102(4) (E)(i) (Repl. 2012).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that the Claimant has failed to prove by a preponderance of the credible evidence that he sustained a compensable back injury on September 29, 2018, while working for Dollar Tree. The record is replete with inconsistencies and conflicting accounts of when and how the Claimant's alleged back injury occurred.

I found both the Claimant's and Mr. Smith's testimony to be dubious and fluid with inconsistencies. As such, I further find that both witnesses gave incredulous testimony during hearing. Therefore, I have attached minimal weight to their testimony.

Specifically, Mr. Smith testified that he was present on the day of the Claimant's alleged work-related back injury. He gave an account of the Claimant unloading boxes of bleaches and having complained of injuring his back. Mr. Smith specifically stated that he was there when the Claimant's injury occurred. However, on cross examination the Claimant admitted that during his

deposition testimony he testified that there were no witnesses to the alleged incident. According to his deposition testimony, the Claimant testified that he was unloading the truck by himself. Ultimately, the Claimant changed his testimony on cross examination and admitted that no one was present when his alleged injury occurred. In addition to this, the Claimant verified that he testified during his deposition that he does not remember if his incident occurred in the morning or evening.

However, on cross examination, the Claimant admitted that he does not remember whether got injured in the morning or evening. Specifically, the Claimant testified in relevant part, “I really don’t know. I’m doing my best to remember.” To contrary, on direct examination, the Claimant testified that his injury occurred on the evening of September 28, 2018, between 5:00 p.m. and 7:00 p.m.

The medical evidence does not support a work-related injury on September 29, 2018. In fact, although the Claimant maintained he sought medical treatment the next day after his alleged incident, a medical record demonstrating the same has not been presented. The first medical record is dated October 1, 2018, the Claimant sought medical treatment from the Ouachita Valley Family Clinic. At that time, the Claimant reported that he had lumbar spine pain that started one to four weeks ago. Per this document, the Claimant’s back pain started at least around September 1, 2018. There is absolutely no mention of an incident of a work injury at that time. In fact, there

is no medically documented complaint suggesting a work-related injury until December of 2018, almost three months following the alleged injury of September 2018.

Yet, that medical record from UAMS is also inconsistent with an injury of September 29, 2018. In that regard, on December 21, 2018, the Claimant sought medical treatment from UAMS due to low back pain. At that time, the Claimant essentially reported to healthcare professional there that he had been lifting boxes for the previous two weeks and his back pain had gotten worse in the last week. The Claimant was not employed by Dollar Tree during the middle of December 2018.

On October 14, 2020 the Claimant underwent a first evaluation for physical therapy treatment from Precision One Therapy. According to this medical note, the Claimant reported that for unknown reasons he had an exacerbation of back pain, which began a month ago. This information renders an injury date of September 14, 2018.

Although during the hearing there was emphasis put on whether the Claimant injured his back on September 28th or 29th of 2018, I realize that the Claimant is not required to prove the exact date and time of the accident. Hence, the inability to identify a certain date does not bar the Claimant from receiving compensation. Edens v. Superior Marble & Glass, 346 Ark. 487, 58 S.W. 3D 369 (2001). However, the confusion about the date is a matter of credibility to be considered. Based on the Claimant's inconsistent versions of events, particularly whether his

injury happened in morning or evening time, I find that his testimony lacked credibility, which caused me to question whether the alleged incident of him lifting boxes and having injured his back at work ever occurred. What is even more disconcerting is the fact that the Claimant brought a witness to the hearing to attest to him having seen the alleged work incident although ultimately the Claimant admitted on cross examination that no one was present during the alleged event-that his deposition testimony was correct.

Nevertheless, considering that the Claimant has given inconsistent, confusing, vague, and incredulous testimony concerning his alleged back injury of September 2018, I am persuaded that it would require conjecture and speculation for me to conclude that the Claimant sustained a compensable back injury on September 29, 2018, in the course and scope of his employment with Dollar Tree. Conjecture and speculation cannot supply the place of proof. Dena Construction Co. v. Herndon, 264 Ark. 791, 575 S.W.2d 155 (1979).

Concisely, I find that the Claimant failed to prove by a preponderance of the evidence that he sustained a compensable back injury, while working for Dollar Tree on September 29, 2018. Since the Claimant failed to establish compensability of the claim, compensation must be denied.

Of note, the Claimant also alleged that he has been incapacitated from working due to his alleged back injury of September 2018. However, he represented to Arkansas Workforce Services during the period for which he requested temporary total disability benefit that he was “ready,

willing, and able to work.” While this issue has been rendered moot, it too goes to the weight of his credibility.

Because the Claimant failed to prove he sustained a compensable back injury on September 29, 2018, all other issues of temporary total disability, medical benefits, and compensable consequence injuries of depression and anxiety have been rendered moot and not discussed in this Opinion.

Hence, this claim for benefits associated with a back injury is hereby rendered moot and not discussed herein this Opinion. Therefore, this claim for a back injury is respectfully denied and dismissed in its entirety.

ORDER

The medical packet presented to the Commission after the June 3, 2021 hearing has been excluded from record. The Claimant failed to prove by a preponderance of the credible evidence that he sustained a compensable back injury on September 29, 2018, in the course of his employment with Dollar Tree. Therefore, this claim for a back injury is hereby respectfully denied and dismissed in its entirety.

IT IS SO ORDERED.

CHANDRA L. BLACK
ADMINISTRATIVE LAW JUDGE

Reece – G807143

