

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **H305255**

SETH A. STANLEY, EMPLOYEE	CLAIMANT
NOVO BUILDING PRODUCTS LLC, EMPLOYER	RESPONDENT
CHARTER OK FIRE INSURANCE COMPANY, CARRIER/TPA	RESPONDENT

OPINION FILED **OCTOBER 16, 2025**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF in Russellville, Pope County, Arkansas.

Claimant represented by GARY DAVIS, Attorney, Little Rock, Arkansas.

Respondents represented by MICHAEL E. RYBURN, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On July 28, 2025, the above captioned claim came on for a hearing at Russellville, Arkansas. A pre-hearing conference was conducted on May 22, 2025, 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. All prior Opinions are *res judicata*.
3. The employee/employer/carrier relationship existed on August 8, 2023.
4. Claimant sustained a compensable injury on August 8, 2023.
5. The compensation rate is \$564.00 for temporary total disability.

By agreement of the parties, the issues to be litigated and resolved at the forthcoming hearing

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were limited to the following:

1. Whether claimant is entitled to underpayment of temporary total disability benefits from the prior award.

2 Whether claimant is entitled to statutory penalties for untimely payment of prior award.

3 Whether claimant is entitled to mileage reimbursement.

4 Attorney's fee on unpaid indemnity benefits.

All other issues are reserved by the parties.

The claimant contends that "He sustained admitted compensable injuries. A hearing was held December 17, 2024, pursuant to which was issued an Opinion February 6, 2025, awarding claimant certain temporary disability benefits. Respondents did not appeal the decision within 30 days, nor did they pay benefits within 15 days of the finalization of the award. The awarded benefits were not only wrongly paid, but they were not timely paid. Therefore, statutory late payment penalty is sought. Further, claimant has submitted mileage reimbursement expense requests, which respondents have failed or refused to pay. These matters have been controverted. Claimant's attorney respectfully requests that any attorney's fee owed by claimant on controverted benefits paid by award or otherwise be deducted from claimant's benefits and paid directly to claimant's attorney by separate check, and that any Commission's Order direct the respondent to make payment of attorney's fees in this manner."

The respondents contend that "They have correctly paid benefits on this claim."

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 claimant 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 May 22, 2025, and contained in a pre-hearing order filed on that same date are hereby accepted as fact.

2. Claimant met his burden of proof that he was underpaid his past due temporary total disability benefits in the amount of \$2,865.73.

3. Claimant met his burden of proof that respondent did not pay the previous award in this case within 45 days of the order and is entitled to a 20% penalty on those unpaid benefits in the amount of \$2,305.60.

4. Claimant met his burden of proof that he is entitled to reimbursement for mileage expenses in the amount of \$143.99

HEARING TESTIMONY

Claimant was the only witness to testify at this hearing. He explained that following the previous hearing in this matter, he believed he was owed \$10,680.39 after his portion of his attorney's fee was withheld. Claimant testified that he had received only \$7,221.27, which was paid on March 26, 2025. Claimant maintained an underpayment of \$3,459.12 and requested a 20% penalty on the entire amount of \$12,206.61, because the deposit of \$7,221.27 was made 47 days after the date of the February 6, 2025, order awarding him those benefits.

Claimant also requested mileage that had not been paid in the amount of \$156.42.

On cross-examination, claimant conceded that he may have miscalculated one of his mileage requests but was certain that he had not received \$3,459.12, which represents the unpaid benefits.

REVIEW OF THE EXHIBITS

Claimant submitted eighteen pages of exhibits, including my opinion of February 6, 2025, correspondence with the carrier and submitted requests of mileage reimbursement. Respondent submitted two exhibits totaling 10 pages; the first exhibit was a three-page spreadsheet that had to be copied in three pages each for a total of 9 pages; the second was a handwritten calculation of what respondent believed the testimony and records supported.

ADJUDICATION

There are three components to this claim. First, claimant maintains that based on the previous Order of this court, he was underpaid \$3,459.12 (Tr. 7) for past due benefits. Second, because he was not paid the amount awarded in a timely fashion, the 20% penalty as provided by 11-9-802(c) applies. The third portion of the claim involves unpaid mileage.

Underpayment:

As per my order of February 6, 2025, respondents had underpaid claimant because temporary total disability benefits were paid at an incorrect rate and because payments of permanent partial disability benefits were made at a time that claimant should have received temporary total disability. At the time of the last hearing, \$40,044.00 should have been paid but only \$28,516.00 had been sent to claimant. Therefore, claimant should have received a payment of \$11,528.00 for his unpaid benefits. Respondent owed one-half of the attorney's fee on that sum, with claimant being responsible for the other half, and after deducting \$1,441.00 from claimant's proceeds, he should have received a check for \$10,087.00. (Cl. X, page 10). On March 26, 2025, claimant received a payment in the amount of \$7,221.27 (Tr. 7). There was no explanation as to why \$7,221.27 was submitted rather than the full amount of \$10,087.00. Claimant therefore is owed \$2,865.73 for unpaid temporary total disability benefits as per my previous order.

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Penalty:

My opinion awarding unpaid benefits was rendered on February 6, 2025. Because it was not appealed, the payment of those unpaid indemnity benefits was due 45 days after my order, *Johnson v. American Pulpwood Co.*, 38 Ark. App. 6, 826 S.W.2d 827 (1992). It is 47 days between February 6, 2025, and March 26, 2025, and as such, the payment was not made in a timely fashion. Claimant is entitled the 20% penalty on the unpaid installment payments of \$11,528.00 as provided by Ark. Code. Ann. §11-9-802(c), or \$2,305.60.

Mileage claim

Claimant requested \$156.47 for unpaid mileage reimbursements. According to claimant, respondent began using a GPS program to recalculate the number of miles it would pay for trips to and from his medical treatment, and therefore did not pay his claims as submitted. Claimant testified he was using the shortest route to get to the medical providers. Respondent did not present anything to demonstrate the accuracy of bingmaps.com as recited in its April 18, 2025, letter of explanation to claimant. I accept the figures submitted by claimant¹. However, in reviewing claimant's mileage log (Cl. X, page 13), I believe he made a mistake on his entry of April 11, 2025, because it is not 58 miles from his home to an address in Russellville, Arkansas; other entries to Russellville are submitted as 34 miles. Claimant admitted that his destination on April 11, 2025, was a short distance from the other Russellville location. Therefore, I am reducing that one entry from 58 miles to 34 miles for the round trip; at \$.52 per mile, which is a deduction of \$12.48 for a total owed for mileage of \$143.99.

The amount of the underpayment, the penalty on unpaid benefit and the unpaid mileage total \$5,315.32.

¹ I am familiar with how GPS programs work; rather than showing the route one would take via interstate, these often use state highways and side roads to shave a few miles off the total miles owed. I do not require a person to drive a longer time than the most convenient trip would take.

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ORDER

Respondents are directed to pay benefits in accordance with the findings of fact set forth herein this Opinion. All accrued sums shall be paid in lump sum without discount, and this award shall earn interest at the legal rate until paid, pursuant to Ark. Code Ann. § 11-9-809.

Claimant's attorney announced at the hearing that he was waiving his attorney's fee for bringing this action.

IT IS SO ORDERED.

JOSEPH C. SELF
ADMINISTRATIVE LAW JUDGE