

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H403830

CALEB TENNIS, EMPLOYEE

CLAIMANT

**CONWAY REGIONAL MEDICAL CENTER,
EMPLOYER**

RESPONDENT

**CONWAY REGIONAL MEDICAL CENTER
RISK MANAGEMENT RESOURCES,
INSURANCE CARRIER/TPA**

RESPONDENT

OPINION FILED SEPTEMBER 16, 2025

Hearing before Administrative Law Judge, James D. Kennedy, on the 15TH day of July, 2025, in Little Rock, Arkansas.

Claimant is represented by Greg Giles, Attorney at Law, Texarkansas, Arkansas.

Respondents are represented by Melissa Wood, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on the 15th day of July, 2022, and at the time of the hearing, the issues before the Commission were whether the claimant was entitled to permanent partial disability of at least five (5%) percent and attorney fees. All other issues were reserved. A copy of the Pre-hearing order was marked "Commission Exhibit 1" and made part of the record without objection. The Order provided that the parties stipulated that the Arkansas Workers' Compensation Commission had jurisdiction of the within claim and an employer/employee relationship existed on or about February 6, 2023, when the claimant sustained a compensable injury to his low back. At the time of the injury, the claimant was earning an average weekly wage of \$721.07 entitling him to a TTD/PPD rate of \$481.00/\$361.00, respectively. The claim was accepted as a compensable medical only claim.

The claimant contended that he is entitled to an impairment rating of at least five (5%) percent and is entitled to permanent partial disability benefits associated with his compensable injury, plus attorney fees, with all other issues reserved. The respondents contended that all appropriate benefits were being paid with regard to the claimant's injury sustained on February 6, 2023, that Dr. Bruffett released the Claimant as having reached MMI on May 22, 2023, and that he released the claimant to full duty with no rating. If any rating applies, it is associated with a prior lower back injury sustained by the Claimant on October 27, 2021.

The claimant's and respondent's contentions are all set out in their respective responses to the Pre-hearing Questionnaire and made a part of the record without objection. The sole witness was the claimant, Caleb Tennis. From a review of the record as a whole, to include medical reports and other matters properly before the Commission, and having had an opportunity to observe the testimony and demeanor of the witness, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. 11-9-704.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. That an employer/employee relationship existed on or about February 6, 2023, when the claimant sustained a compensable injury to his low back.

3. That at the time of the injury, the claimant was earning an average weekly wage of \$721.07, sufficient for a TTD rate of \$481.00 and a PPD rate of \$361.00.
4. The claim was accepted as a compensable medical only claim.
5. That the claimant has failed to satisfy the required burden of proof by a preponderance of the credible evidence that he is entitled to a permanent partial disability rating (PPD) to the body as a whole.
6. That as a result of the above finding, the issue of attorney fees are moot.
7. If not already paid, the respondents are ordered to pay for the cost of the transcript forthwith.

REVIEW OF TESTIMONY AND EVIDENCE

The Pre-hearing Order along with the Pre-hearing questionnaires of the parties were admitted into the record without objection. The claimant submitted an abstract of the medical records that consisted of 4 pages that were admitted without objection. In addition, the claimant submitted 59 pages of medical records that were admitted without objection. The respondents submitted 24 pages of medical records which included an index without objection. In addition, the respondents submitted a second exhibit which consisted of three pages of non-medical documents with index, also admitted without objection.

The claimant, Caleb Tennis, was the only witness to testify and stated he was born on January 9, 1993, and was thirty-two years old at the time of the hearing. He had obtained a GED and “some college.” At the time of the hearing, he was working for SRM Concrete as a mixer truck driver, driving all over the state. His accident occurred while

he was working for Conway Regional back on February 6th, 2023, but he had previously suffered an earlier injury also while working for Conway Regional back on October 27, 2021. He thought that he had started working for Conway Regional back in February of 2021. He was hired as a gastroenterology technician and handled equipment for the doctors. His job consisted of prepping and cleaning scopes, assisting the doctors during a procedure to remove polyps, logging the samples and making sure that they get to the labs, and at times assisting in the process of lifting and moving patients. (Tr. 6 – 8)

He was initially injured while transporting a “rather large” patient from the patient tower to the GI lab, and in the process of moving the patient who was resting on a wheeled bed into the elevator, the bed’s wheels turned sideways in the doorway opening of the elevator and became stuck. No assistance was available, so the claimant attempted to pick up the patient’s bed in October of 2021, and the claimant suffered back pain and pain in his legs. He was sent to company doctor, Johnson, following the injury where he received an MRI, and was prescribed muscle relaxers, steroids, and physical therapy. He was off work for a week which was covered under PTO. He stated that he was initially placed on light duty immediately following the accident and was later completely released after being seen by Dr. Bruffett. The claimant stated he felt “actually pretty normal” after his release and returned to full duty at Conway Regional. He required no treatment for any back or leg pain until February 6th, 2023. (Tr. 9 - 11)

The second accident on February 6th, 2023, occurred while the claimant was working in the decontamination room where equipment was washed and sanitized. The claimant stated he bent over to place a scope that weighed from five to ten pounds in the washer and felt a sharp pain in his back. “I felt fine until I bent forward with it.” “When

the pop happened, it was like severe pain. I felt really inflamed, and then from there it shot down into my legs. And I remember that I almost fell over and I had to grab my - - the two washers to keep myself upright.” After the incident, the claimant was sent home. He stated that he requested to see Dr. Johnson, and his claim and his request to see Dr. Johnson were accepted. (Tr. 13) He was again treated with muscle relaxers, steroids, physical therapy, and received another MRI. He continued to work having sharp pains in his back and his left leg. He was again sent to Dr. Bruffett one or two times, and Dr. Bruffett compared the MRI’s and placed the claimant at MMI on May 23, 2023. He was released and not placed on any restrictions. “After Injury Number One, I was fine, but Two, even after I saw Bruffett, I still had the back and leg pain, nerve pain.” After being released in regard to injury Number Two, “I still had my lower back pain, the same lower back pain, and the pain in my legs, or my leg.” He went on to state that he returned to work full time, didn’t seek any more additional medical treatment, and was just trying to work and deal with it and continued to work for the respondent, Conway Regional. (Tr. 14, 15)

In regard to no longer working at Conway Regional, the claimant testified that a doctor left the hospital, and they started talking about reducing his hours. He needed to support his family, so he looked for work elsewhere. He then went to work for Crossroads, in November or December of 2023. He was told that the new job was going to be as needed. He had second thoughts about the new job, so he contacted his previous supervisor, Kayce O’ Conner, and asked if he could return to Conway Regional and work in a different department. He stated that his supervisor was agreeable. He then went to an orientation at Conway Regional but was then called by the hiring manager of

Crossroads, who wanted to hire him as a full-time CDL driver. As a result of that request, he decided to stay at Crossroads, and sent a resignation notice to his former manager at Conway Regional. (Tr. 16, 17) The claimant went on to state that he would return to Conway Regional today, but was still having issues with his back and leg. In regard to his pain, “If I am more active one day than the other, if I’m lifting more stuff up, it’s very noticeable and I’ll feel the back in my lower back and the nerve pain in my leg. It just kind of depends on how active or what I’m really doing that day.”

The claimant stated that he has continued to work at Crossroads and admitted he alleged a work-related injury while working for them and it was referenced in the doctor’s records of January 29. He was lifting a box when he felt a weird pain in his back which was the same pain he felt before. Consequently, he received another MRI and was again sent to Dr. Bruffett. (Tr. 18, 19) Dr. Bruffett had no recommendations and nothing changed nor did his situation worsen after the Crossroads incident. “Some days I’ll still have the back pain and the leg pain just depending on basically how active I am. You know, if I go out and I lift like 400 pounds of feed, I’m going to feel it the next day, but it’s pretty much the same.” In regard to his current job, he stated he just sits in the truck and has a remote control that controls his truck when he is pouring the concrete. (Tr. 20) The claimant denied seeing any doctors in regard to his back and leg pain since his last visit to Dr. Bruffett on April 3rd, 2024. The claimant denied ever talking to Dr. Shane McAlister or Dr. Michael Calhoun. He went on to state that he felt he had never really full recovered from the second injury. (Tr. 21)

Under cross examination, the claimant admitted he had previously stated in his deposition that once he got into the elevator at Conway Regional on October 27th, 2021,

somehow the elevator became unlevel, and he had to lift the bed three inches out of the crack. The patient on the bed weighed between 400 to 450 pounds. He also admitted that he had earlier stated when he got up from his stool in the operating room, he felt a shooting pain in his back. The pain initially traveled to his left leg, but after a couple of hours, the pain went down both legs. Additionally, he admitted he had stated that his lower back was on fire and also that his groin was also pretty bad. He also admitted that Dr. Johnson had prescribed pain pills, but he did not take them, due to a family history of abuse. (Tr. 22, 23) The claimant also stated that in response to a discussion with Dr. Bruffett after the October 21st injury (the first injury), there had been a discussion about surgery. He admitted that he had stated in his deposition that he did not want surgery at that time with one of the issues being his age. (Tr. 24)

In regard to the second injury while cleaning the scopes, he admitted that he again performed light duty afterwards, just like the first injury, and then continued full duty until the end of 2023, when he left due to the possibility of his hours being reduced. He admitted then going to work for Crossroads Building Supply and being sent for a physical to obtain his CDL. (Tr. 25) He thought that he obtained his CDL in November of 2023 and would have then received his physical, and his CDL was still good on the day of the hearing. He also admitted that he settled his claim that involved him picking up a box that weighed 100 pounds, and at the time of his deposition was working for Ridout, which continued until his most recent job. He admitted to working 40 to 55 hours a week and lifting pieces of wood that weighed up to 50 pounds. He also admitted he is currently working 40 to 60 hours a week. He responded “No” to the question in his deposition, “Is your back keeping you from doing anything right now?” He also admitted that he was not

taking any pain medication except maybe a Tylenol every once in a while and that he might develop an issue when he had lifted 400 pounds of feed for his farm animals with the bags weighing fifty (50) pounds each. (Tr. 26 – 28)

The claimant's exhibit one consisted of an abstract of the table of contents containing four pages. The actual medical records consisted of fifty-nine pages which included a table of contents. The medical records provided that the claimant initially presented to Dr. Gil E. Johnson, a physician at the College Park Family Clinic on February 7, 2023. The progress note provided that the claimant had injured his back when he lifted a scope while leaning forward. He developed a sharp pain which he related as a 10 out of 10. He suffered a previous back injury on October 27, 2021, and was then also seen by Dr. Johnson on November 23, 2024. His workup at that time included an X-ray, MRI, Medrol Dosepak, muscle relaxants, physical therapy, and light duty restrictions. The MRI showed spine spondylosis with a mild disc bulge and a left paracentral protrusion with mass effect on the left lateral recess with moderate neural foraminal narrowing at L5. At the time of the previous injury, the claimant was last seen by Dr. Johnson on March 1, 2022, who then referred him to Dr. Bruffett. A follow-up visit was scheduled with Dr. Bruffett but for some reason the claimant failed to appear. At that time, the orthopedist noted in his chart notes that he could not state the source of the claimant's pain was the bulging disc at L5 – S1. The report went on to provide for conservative management with Medrol dose packs, physical therapy, application of a heating pad, and sedentary duty. (Cl. Ex. 2, P. 2, 3)

Claimant returned to Dr. Johnson on February 7, 2023, and the report provided he had suffered a new injury consisting of an acute strain on February 6, 2023. Claimant

was placed on sedentary work with a ten-pound lifting limit. A Medrol dose pack and Zanaflex were prescribed. (Cl. Ex. 2, P. 4 - 6) The claimant then returned to Dr. Johnson for a “follow up for the new injury” on February 10, 2023. The report recommended starting physical therapy. (Cl. Ex. 2, P. 7 - 10) The claimant again returned to Dr. Johnson on March 3, 2023, and the report provided that there was less pain when palpating the L5 – S1 area. The MRI on February 23, 2022, was reviewed by Dr. Johnson. (Cl. Ex. 2, P. 10 – 12) Claimant then returned for another follow up with Dr. Johnson on March 14, 2023. The report provided that a referral to a specialist may be required. (Cl. Ex. 2, 14, 15) Claimant again returned to Dr. Johnson on March 31, 2023, and the report provided he has in pain while sitting, which was a new problem since the injury. Additionally, he had pain when bending forward with most of his pain coming from L5 – S1. A new MRI was recommended. (Cl. Ex. 2, P. 16 – 18)

The MRI report of April 11, 2023, provided for a normal lordotic curvature of the lumbar spine with a 2 mm grade 1 retrolisthesis of L5 on S1 which appeared degenerative etiology. No acute fracture was noticed due to the imaging. There was no spinal cord stenosis at T12 – L1. Under impression, the report provided for spondylosis with a mild disc bulge and left paracentral to left foraminal disc herniation with moderate mass effect on the left lateral recess and contact of the descending left S1 nerve root by herniated disc, moderate right and moderate to severe left neural foraminal narrowing, which has mildly progressed since that previous study. The report also stated that the remainder of degenerative changes as above with no other spinal canal stenosis or other moderate to high-grade neural foraminal narrowing. (Cl. Ex. 2, P. 18 – 20) Dr. Johnson then referred the claimant to an orthopedic specialist on April 19, 2023. (Cl. Ex. 2, P. 22).

Claimant then presented to Dr. Wayne Bruffett on May 22, 2023. The report provided that the claimant still had some mild residual symptoms “but is not really impaired by this any longer.” “There may be some subtle progression at L5 – S1 of the lateral or lateral recess bulging disc. Some of this is probably disc osteophyte complex. It is not a great quality scan. But it may have progressed just a little.” “I would say he is now at maximum medical improvement from this February incident. I think he can return to work without restrictions. I do not think he is impaired to the extent where he needs an impairment rating per se.” A return to work with regular duty note was issued by Dr. Bruffett. (Cl. Ex. 2, P. 23 -28)

A third MRI occurred on March 4, 2024, which provided that compared to the prior exam, the degree of stenosis had increased slightly. There was a mild to moderate diffuse developmental canal narrowing with L3-4 and L4-5 small broad-based central herniation producing mild canal and bilateral recess/foraminal stenosis. At L5-S1, there was moderate broad-based left paracentral herniation producing severe left recess, moderate right recess, and moderate to severe bilateral foraminal stenosis. (Cl. Ex. 2, P. 29, 30) The claimant then returned to Dr. Bruffett on April 3, 2024. The report provided that after reviewing the MRI prior to the work event and the one afterwards, Dr. Bruffett did not see any evidence of an objective injury on the imaging that could be related to the work accident on January 29, 2024. He stated he would not recommend any further treatment, and the claimant was at maximum medical improvement with no rating and could return to his regular job. (Cl. Ex. 2, 31 - 33)

A Records Review Report by Dr. Shane McAlister, dated January 19, 2025, and provided at the request of Ms. Cassidy Santillan, CAWC, of Cadence Insurance Risk

Management Resources, provided for a diagnosis of degenerative disc disease of the lumbar spine. The report provided that Dr. McAlister reviewed the medical records of the claimant that involved his lower back, including the MRI scan that occurred prior to the work injury, and an MRI scan afterwards on April 11, 2023, and also one on March 4, 2024. The report by Dr. McAlister provided there was a disparity in pain complaints and pain behavior. In regard to the dermatomal map that the report provided, the left sided disc protrusion would have created a left L5 radicular distribution to be symptomatic, and there was nowhere in this record suggesting that. Nor was there any evidence of spinal instability. There was never any finding on the diagnostic imaging of any bony or soft tissue damage that would be necessary to define a traumatic injury. No traumatic injury was identified. (Cl. Ex. 2, P. 35 – 54)

A letter to Dr. Michael Calhoun from claimant's counsel dated March 31, 2025, was also made part of the record and the letter provided Dr. Bruffett had given the claimant a 0% impairment rating. Dr. Calhoun of Pain Treatment Centers of America in Little Rock, Arkansas, and certified by the Board of Neurological Surgery on May 17, 1995, provided in a letter also dated March 31, 2025, that he had reviewed the medical records available, which included the MRI prior to the work-related accident and then the two MRI's that occurred after the work-related accident. He opined that since the claimant had suffered a lumbar disc herniation with some residual symptoms, "he is awarded a 5% impairment of the whole person. This is according to Table. 75, page 3/113, of the Fourth Edition of the AMA Guidelines to the Evaluation of Permanent Impairment." (Cl. Ex. 2, P. 55 – 59)

The respondent also submitted medical records without objection, a report by Dr. Bruffett dated May 22, 2023, and a Review of Records and Radiology Films by Dr. Shane

McAlister dated January 19, 2025. (Resp. Ex. 1, P. 1 – 23) Both have been earlier reviewed and discussed. Respondents also submitted two pages of non-medical records that were admitted without objection. The claimant submitted a letter of resignation to Conway Regional, the respondent, on January 3, 2024, thanking the hospital for the support and opportunities that they had provided. (Resp. Ex. 2, P. 1.)

Respondents also submitted the AR-C Form dated June 12, 2024, that provided that the claimant, while lifting scopes that appeared to have weighed 80 to 100 pounds, felt a pop and felt a “burning” and that this occurred on January 22, 2024. (Resp. Ex. 2, P. 2)

DISCUSSION AND ADJUDICATION OF ISSUES

The claimant has the burden of proving by a preponderance of the evidence that he is entitled to compensation benefits under the Arkansas Workers’ Compensation Law. In determining whether the claimant has sustained the burden of proof, the Commission shall weigh the evidence impartially, without giving the benefit of the doubt to either party. Ark. Code Ann 11-9-704. Wade v. Mr. Cavananugh’s, 298 Ark. 364, 768 S.W. 2d 521 (1989). Further, the Commission has the duty to translate evidence on all issues before it into findings of fact. Weldon v. Pierce Brothers Construction Co., 54 Ark. App. 344, 925 S.W.2d 179 (1996). This includes the Commission’s province to reconcile conflicting medical evidence. Arkansas Health Ctr. v. Burnett, 2018 Ark. App. 427, 558 S.W. 3d 408.

There is no dispute that the claimant sustained a compensable work-related injury to his lower back while cleaning and picking up scopes used in colonoscopies and that the scopes weighed between five to ten pounds. On the date of the injury on January 22, 2024, the claimant was employed by the gastroenterology department of the respondent, Conway Regional Medical Center. The claimant had suffered an earlier injury to his lower

back on October 27, 2021, while moving a patient for the respondent. The respondents accepted the January 22, 2024, claim as medical only, and the claimant was initially treated by Dr. Gil Johnson of Conway Regional Medical Center, who had previously treated the claimant for his earlier back injury. The claimant was then referred to Dr. Wayne Bruffett, who had also earlier treated him for his previous back injury. Dr. Bruffett saw the claimant on May 22, 2023, for further treatment with the report providing that the claimant had mild residual symptoms “but is not really impaired by this any longer.” Dr. Bruffett went on to opine that the claimant was at maximum medical improvement and he did not think that he was impaired to the extent that he required an impairment rating and returned the claimant to work, regular duty. Later the Claimant received another MRI, and Dr. Bruffett’s report provided that he compared and reviewed the earlier MRI with the latest one and opined that he did not see an objective finding of an injury on the imaging that could be related to the work accident. He also stated that the claimant was at maximum medical improvement and that he could return to his regular job.

Dr. Shane McAlister, who never physically saw the Claimant, provided and issued a Records Review Report at the request of Insurance Risk Management Resources and provided a report, dated January 19, 2025, which provided for a diagnosis of degenerative disc disease of the lumbar spine of claimant. The report went on to state that there was a disparity in the claimant’s pain complaints and his pain behavior and then provided a dermatomal map that showed that the left sided disc protrusion should have produced a left L5 radicular distribution to be symptomatic, and there was no-where in the medical records that suggested that finding, nor any evidence of spinal instability or of traumatic injury.

Dr. Calhoun, who also never physically saw the Claimant, received a request from the claimant's counsel to review the records, and he issued a report on the day of the request. Dr. Calhoun stated he had also reviewed the medical records available, including the MRI's, and he disagreed with Dr. Bruffett's impairment rating due to the fact that the claimant suffered a disc herniation with some residual symptoms and the claimant consequently should be awarded a five percent impairment rating to the whole person based on Table 75, page 3/113 of the 4th Edition of the AMA Guidelines for the Evaluation of Permanent Impairment.

The parties agreed that the primary issue to be litigated before the Commission is the permanent impairment rating. Permanent impairment is any permanent functional or anatomical loss remaining after the healing period has been reached. Johnson v. General Dynamics, 46 Ark. App. 188, 878 S.W.2d 411 (1994). Any determination of the existence or extent of physical impairment shall be supported by objective and measurable physical findings. A.C.A. 11-9-704 (7)(B). Objective findings are those findings which cannot come under the voluntary control of the patient. A.C.A. 11-9-102(16)(A)(i). Although it is true that the legislature has required medical evidence to establish a compensable injury, it does not follow that such evidence is required to establish each and every element of compensability. Stephens Truck Lines v. Millican, 58 Ark. App. 275, 950 S.W.2d 472 (1997). Medical opinions addressing impairment must be stated within a reasonable degree of medical certainty. A.C.A. 11-9-102(16)(B). Permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment. A.C.A. 11-9-102(F)(ii)a. "Major cause" means more than fifty percent (50%) of the cause. A.C.A. 11-9-102(14).

In the present matter, Doctor Bruffett, the treating physician, who had the opportunity to have a hands-on evaluation of the claimant, opined that the claimant had reached maximum medical impairment, could return to regular work, and that there were no objective findings that the claimant's injury was work related. He opined that the claimant had a zero percent impairment rating. Dr. McAlister, who did not have the opportunity to personally evaluate the claimant, but did have an opportunity to evaluate the medical records and MRI's, opined in his report that there was a disparity in the claimant's pain complaints and pain behavior and then provided a dermatomal anatomical map to show that the claimed pain did not correspond to the disc protrusion at L5. Only Dr. Calhoun, who also did not have the opportunity to physically evaluate the claimant but also had an opportunity to evaluate the medical records and the MRI's, provided that the claimant's disc herniation and residual symptoms should result in a five percent impairment rating to the body as a whole, based upon the 4th Edition of the AMA Guidelines.

It is well settled that the Commission has the duty of weighing medical evidence and the authority to determine its medical soundness and probative force. Williams v. Ark. Dept. of Cmty. Corr., 2016 Ark. App. 427, 502 S.W. 3d 534 (2016). Although Dr. Calhoun issued a permanent partial disability (PPD) rating to the body as whole of five percent (5%), after a review of the medical records and the MRI's, the opinion issued by Doctor Bruffett of a zero percent (0%) permanent partial disability (PPD) rating to the body as a whole is found to be entitled to a more significant evidentiary weight than the opinion of Dr. Calhoun, due to Doctor Bruffett's personal examinations of the claimant, and is found to be controlling. Additionally, Dr. McAlister's opinion, which was also admittedly based

only upon a review of the medical records, tends to bolster the opinion of Dr. Bruffett, due to Dr. McAlister pointing out that there was a disparity in the claimant's pain complaints and pain behavior, and in also providing a dermatomal map to show that the claimed pain did not correspond to the disc protrusion at L5. It is also noted that the claimant testified that he is currently driving a cement mixer truck and develops a soreness in his back after moving 400 pounds of feed in 50-pound bag increments. He also admitted moving wood that weighed up to 50 pounds.

Since the claimant is found to not have a permanent partial disability rating to the body as a whole or having zero percent (0%), all other issues are moot.

CONCLUSION

Based upon the available evidence, and after weighing it impartially without giving the benefit of the doubt to either party, it is found that the claimant has failed to satisfy the required burden of proof by a preponderance of the credible evidence that he is entitled to a permanent partial disability rating (PPD) to the body as a whole. Due to this finding, all other issues are moot. If not already paid, the respondents are ordered to pay the cost of the transcript forthwith.

IT IS SO ORDERED.

JAMES D. KENNEDY
Administrative Law Judge