

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H404818

RANDELL WEICHT, Employee	CLAIMANT
QUALITY TRUCKING OF LITTLE ROCK, Employer	RESPONDENT
BROADSPIRE SERVICES, INC., Carrier	RESPONDENT

OPINION FILED NOVEMBER 3, 2025

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant unrepresented and appearing pro se.

Respondents represented by ZACHARY F. RYBURN, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On September 24, 2025, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on July 23, 2025, and a pre-hearing order was filed on that same date. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 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 the within claim.
2. The employee/employer/carrier relationship existed among the parties on July 16, 2024.

The issues to be litigated at the forthcoming hearing are as follows:

1. Compensability of injuries to right knee and right shoulder on July 16, 2024.
2. Payment of medical.
3. Temporary total disability benefits from date last paid through a date yet to be determined.
4. Compensation rates.
5. Cost of deposition.

Prior to the hearing, respondent also added as an issue its entitlement to the cost of filing a Motion to Dismiss.

The claimant contends he injured his right knee and right shoulder on July 16, 2025. He requests payment of related medical and temporary total disability benefits.

The respondents contend the claimant did not experience an accident. Alternatively, the claimant's accident did not injure the claimant as alleged. The claimant's injuries are preexisting. The claimant owes costs and fees for the deposition cancelled by him after misrepresenting that the deposition was not necessary.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witnesses and to observe their 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 the pre-hearing conference conducted on July 23, 2025, and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. Claimant has met his burden of proving by a preponderance of the evidence that he suffered a compensable injury to his right knee and right shoulder on July 16, 2024.

3. Respondent is liable for payment of all reasonable and necessary medical treatment provided in connection with claimant's compensable injuries.

4. Claimant is entitled to additional temporary total disability benefits from the date last paid, September 10, 2024, through a date yet to be determined at the previously paid compensation rate.

5. Respondent has failed to prove its entitlement to costs for the deposition or for filing the Motion to Dismiss in this claim.

FACTUAL BACKGROUND

The claimant is a 57-year-old man who began working for respondent in May 2024, driving a dump truck. Claimant testified that on July 16, 2024, he had weighed his truck on a scale and had pulled his truck down to the scale house to go in to get his scale ticket. As he opened the door of his truck to step out, he lost his footing on the steps of the truck and fell. Although he landed on his feet, his right elbow was caught as it hit the door on the way down causing an injury to his right shoulder. He also testified that he injured his right knee as a result of the fall.

Claimant testified that after this incident he went to the scale house, got his ticket, and returned to his truck. He then reported the incident to his supervisor and upon returning to the respondent's yard, he completed an accident report.

Medical records indicate that claimant received treatment from Dr. Robert McLeod at Ozark Orthopedics on August 8, 2024. Dr. McLeod indicated that claimant had a partial-thickness rotator cuff tear and a right medial meniscus tear. Dr. McLeod indicated that an arthroscopic procedure might be necessary on the claimant's right knee and a rotator cuff repair. However, on August 8, 2024, Dr. McLeod provided treatment in the form of injections to claimant's right knee and right shoulder.

Claimant also testified that he has treated with Dr. Dougherty and has undergone two knee surgeries and two shoulder surgeries.

The respondent originally accepted this claim as compensable and paid some compensation benefits; including, temporary total disability benefits through September 10, 2024. Respondent subsequently controverted this claim, and claimant requested a hearing contending that he suffered compensable injuries to his right knee and right shoulder on July 16, 2024. He seeks payment of medical treatment, temporary total disability benefits from the date last paid through a date yet to be determined. Respondent has raised as an issue its entitlement to payment for costs of a deposition and for the filing of a Motion to Dismiss.

ADJUDICATION

Claimant contends that he suffered compensable injuries to his right knee and right shoulder when he fell while getting out of his dump truck on July 16, 2024. Claimant's claim is for a specific injury, identifiable by time and place of occurrence.

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.

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has met his burden of proof.

First, I find that claimant has proven that he suffered an injury which arose out of and in the course of his employment with respondent and that the injury was caused by a specific incident identifiable by time and place of occurrence. Claimant testified that on July 16, 2024, he had weighed his dump truck on a scale and had pulled down to the scale house to go into the scale house and get his weigh ticket. As he opened the door of his truck to step out, he lost his footing on the steps of the truck and fell, landing on his feet but in the process, injuring his right shoulder and right knee.

Following this incident, claimant reported the injury to his supervisor and completed an accident report. Testifying at the hearing was claimant's supervisor, Slade Zeigler. Zeigler testified that he was aware of the incident on July 16, 2024.

I note that the respondent submitted into evidence a video which was taken from inside claimant's truck cab on July 16, 2024. Although that video does not show the claimant falling as he gets out of his truck, the video contains audio shortly after claimant stepped out of his truck, which sounds like it could be a fall.

Also appearing at the hearing was Stephanie Stallsworth, an individual who had worked with claimant at a prior job. On July 16, 2024, as claimant was driving his truck off of the weigh scale, claimant and Stallsworth were having a telephone conversation. When claimant stopped his truck to get out in order to go into the scale house and get his ticket, he simply put his headset down but did not hang up on the phone call with Stallsworth. Stallsworth testified that the following transpired.

And all of the sudden I heard thunk – thunk, and I was waiting for you to get back on the phone and I said, "Randell, Randell, are you ok?" And you got back in there in the truck after a few minutes, probably two or three minutes had passed, and you put your headset back on and you said, "You're never gonna believe what happened." I was like, "Did you just fall out of the truck, because I heard thunks?" And you said, "Yeah, I sure did." And you said you scratched up your elbow, you hurt your back, you hurt your shoulder, your whole body was hurting.

Based upon claimant's testimony which I find to be credible; the fact that claimant reported the accident to his supervisor and completed an accident report; the video which contains a sound which appears to be claimant falling as he gets out of the truck; and Stallsworth's testimony that it was her impression that claimant had fallen, I find that

that claimant has met his burden of proving by a preponderance of the evidence that his injury arose out of and in the course his employment with respondent and that it was caused by a specific incident identifiable by time and place of occurrence.

With respect to this issue, I note that respondent introduced into evidence text messages between claimant and Zeigler regarding claimant having been side-swiped by a car that swerved to miss a deer and the fact that at one point claimant was moving some furniture. Both of these events occurred before July 16, 2024. However, there is no credible evidence that claimant injured either his right knee or right shoulder as a result of these incidents. Claimant denied having been injured and the medical does not mention either of these incidents. Therefore, I find no credible evidence that claimant injured his right knee or right shoulder while moving furniture or as the result of a motor vehicle accident.

I also find that claimant has proven that his injury caused internal or external harm to his body that required medical services or resulted in disability and that he has offered medical evidence supported by objective findings establishing an injury. As previously noted, claimant was treated for his right knee and right shoulder by Dr. McLeod on August 8, 2024. According to Dr. McLeod claimant had a torn rotator cuff as well as a right medial meniscus tear. These are objective findings. Dr. McLeod further indicated that if conservative treatment was not successful, claimant might need an arthroscopic procedure on his right knee and a rotator cuff repair. However, on August 8, 2024, Dr. McLeod simply provided claimant with injections in his right knee and right shoulder. Based upon this evidence, I find that claimant has satisfied the remaining elements of compensability.

In summary, I find that claimant has met his burden of proving by a preponderance of the evidence that he suffered a compensable injury to his right knee and right shoulder as a result of a fall while getting out of his truck on July 16, 2024.

Having found that claimant suffered compensable injuries to his right knee and right shoulder, I find that respondent is liable for payment of all reasonable and necessary medical treatment provided in connection with claimant's compensable injuries.

The next issue for consideration involves claimant's request for temporary total disability benefits. The injury to claimant's right shoulder is an unscheduled injury for which claimant would have the burden of proving that he remained within his healing period and that he suffered a total incapacity to earn wages. *Arkansas State Highway & Transportation Dept. v. Breshears*, 272 Ark. 244, 613 S.W. 2d 392 (1981). However, the injury to claimant's right knee is a scheduled injury. An employee who has suffered a scheduled injury is entitled to receive temporary total disability benefits during the healing period or until they return to work regardless of whether they are totally incapacitated from earning wages. *Wheeler Construction Company v. Armstrong*, 73 Ark. App. 146, 41 S.W. 3d 822 (2001).

Claimant introduced into evidence payment records indicating that he was paid temporary total disability benefits from August 28, 2024, through September 10, 2024. At that point, respondent apparently chose to controvert the claim.

As previously noted, claimant testified that he subsequently came under the care of Dr. Dougherty and has undergone two surgical procedures on his right knee and two

surgical procedures on his right shoulder. Claimant did not submit into evidence these medical records from Dr. Dougherty nor these surgical procedure records.

Claimant did testify that he has not worked since the date of his injury and that he is not currently capable of working because he cannot drive his truck and take his medication.

When claimant was seen by Dr. McLeod on August 8, 2024, Dr. McLeod gave claimant a 20 lb. push, pull, lift, carry limit of 5 lbs. over head with no squatting or kneeling.

It should also be noted at this point that claimant submitted into evidence medical records from Wesley McGehee, a physician's assistant at Ozark Orthopedic, dated September 9, 2024. In that report, and in a return to work note of that same date, certain limitations were placed upon claimant's ability to return to work. However, I note that this evaluation was for complaints of pain involving claimant's neck, mid back, and low back. Although at one point, claimant originally contended that he had injuries to those body parts as a result of the fall, claimant did not pursue compensability of those body parts at the hearing. Therefore, any limitations placed upon the claimant for those conditions cannot serve as the basis for the awardance of temporary total disability benefits.

I note that at the hearing respondent showed a video taken by Zeigler on his phone as he drove past claimant's home. The video showed claimant on a ladder and using a leaf blower to remove leaves from his gutter. Claimant testified that leaves in his gutter were causing water to leak into his house through a window. Claimant testified that the leaf blower was within his lifting restrictions and that he had informed his

treating physician about the need to get on a ladder to clean out this one area of leaves. Zeigler testified that presumably, claimant was moving the ladder from place to place to blow out leaves.

Q Presumably, he was moving this ladder from location to location and blowing out more leaves as the gutter keeps going?

A Yes, sir.

This is clearly an assumption since the video does not show claimant moving the ladder from location to location and Zeigler did not testify that he saw claimant moving the ladder from location to location.

In short, I find that claimant has met his burden of proving by a preponderance of the evidence that he is entitled to continued temporary total disability benefits subsequent to September 10, 2024. Dr. McLeod's medical report of that date indicates that claimant would need additional medical treatment, and, in fact, he prescribed additional medical treatment in the form of physical therapy. According to claimant's testimony, he subsequently came under the care of Dr. Dougherty and underwent two surgical procedures on his right knee and two surgical procedures on his right shoulder. The injury to claimant's right knee is a scheduled injury and claimant is not required to prove that he is totally incapacitated from earning wages, only that he has not returned to work. Claimant testified that he has not returned to work and that he could not drive his truck at the current time due to the medication he is currently taking. Therefore, I find that claimant is entitled to temporary total disability benefits beginning September 10, 2024, and continuing through a date yet to be determined. These benefits are to be paid at the previously accepted temporary total disability rate.

The final issue for consideration involves respondent's request for the cost of attending a deposition and for filing a Motion to Dismiss. Claimant's deposition was scheduled in this case for November 15, 2024. At that deposition, claimant indicated on the record that he did not wish to proceed with the deposition, and he was informed this would result in the respondent filing a Motion to Dismiss. Respondent did, in fact, file a Motion to Dismiss and claimant objected to dismissal of his claim. At the hearing, claimant testified that it was his understanding that he did not have to undergo the deposition since it had not been required by the Commission but simply done at the request of the respondent. Obviously, this was a misunderstanding. However, to the extent that claimant is responsible for the cancellation of the deposition and for the subsequent filing of the Motion to Dismiss, I note that respondent has not offered any specific amount of cost requested. Absent specific dollar amounts, even if costs were justified, no costs could be awarded without those costs having been proven. Therefore, under the circumstances, I find that respondent is not entitled to payment of any costs for the deposition or the filing of the Motion to Dismiss.

AWARD

Claimant has met his burden of proving by a preponderance of the evidence that he suffered a compensable injury to his right knee and right shoulder on July 16, 2024. Respondent is responsible for payment of all reasonable and necessary medical treatment provided in connection with claimant's compensable injuries. Claimant is also entitled to temporary total disability benefits beginning September 10, 2024, and continuing through a date yet to be determined at the rate previously accepted and paid

by the respondent. Respondent is not entitled to payment for costs for the deposition or the filing of the Motion to Dismiss.

Respondents are liable for payment of the court reporter's charges for preparation of the hearing transcript in the amount of \$469.60.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE