

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F410613

STEPHEN HAYMOND	CLAIMANT
METRO MAINTAINERS, INC.	RESPONDENT
FARMERS INSURANCE EXCHANGE INSURANCE CARRIER	RESPONDENT

OPINION FILED SEPTEMBER 22, 2005

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Fort Smith, Sebastian County, Arkansas.

Claimant represented by MICHAEL HAMBY, Attorney, Greenwood, Arkansas.

Respondents represented by CAROL WORLEY, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on June 23, 2005, in Springdale, Arkansas.

A pre-hearing conference was held in this claim, and as a result a pre-hearing order was entered in the claim on March 28, 2005. This pre-hearing order set forth the stipulations offered by the parties, the issues to litigate and the contentions thereto.

The following stipulations were submitted by the parties and are hereby accepted:

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On September 21, 2004, the relationship of employee-employer-carrier existed between the parties.

3. The claimant is entitled to a weekly compensation rate of \$209.00 for temporary total disability and \$157.00 for permanent partial disability.

By agreement of the parties the issues to litigate are limited to the following:

1. Compensability of the claimant's neck and right shoulder injuries on September 21, 2004.
2. Related medical.
3. Temporary total disability from September 22, 2004, to a date to be determined.
4. Attorney's fees.
5. Lack of notice until September 28, 2004.

In regard to the foregoing issues the claimant contends that this claim is controverted in its entirety. The claimant is entitled to reasonable and necessary medical treatment, TTD from September 21, 2004, through a date yet to be determined as well as statutory attorney's fees.

In regard to the foregoing issues the respondents contend that the claimant did not suffer a compensable injury on September 21, 2004.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No. 1. The claimant submitted documentary evidence marked Claimant's Exhibit No. 1. The respondents submitted medical information marked Respondents' Exhibit No. 1, non medical marked Respondents' Exhibit No. 2 and Metro Maintainers' policy marked Respondents' Exhibit No. 3. All these exhibits were admitted without objection.

DISCUSSION

The claimant testified that he was employed by the respondent on or about September 21, 2004, after having worked for them for approximately four years. The claimant explained that his job for the respondent was to clean the UPS office in Fort Smith. The claimant testified that on September 21, 2004, he was working at the UPS office and was trying to raise an overhead door. The claimant testified that he was pulling on the chain when it slipped off the track, jerked his arm and threw his arm back. The claimant testified that the overhead door which he was trying to open up would have been approximately the size of the wall in the hearing room and estimated that it would weight around nine hundred pounds. The claimant testified that he has problems with the doors all the time, further stating that they are a constant battle.

The claimant testified that he was alone at the time of his accident but though that perhaps a coworker, Allen Soriano, might have been present in another part of the building. The claimant was asked if when he was pulling on the door and when the chain came off if the door moved and the claimant testified that the door just stayed in place after the chain came off. The claimant testified that when he was pulling on the chain and it came off the wheel and jerked his arm, he knew immediately he had done some damage because he had pain. The claimant testified that he had pain in his shoulder and neck on the right side. The claimant testified that he normally gets to work around 9:15 or 9:30 and that this accident happened around 10:00. The claimant testified

that he usually is finished by noon and that on the date of his accident he finished out his shift. The claimant testified that he was going to mention his accident to Ron, a gentleman who works for UPS, but he could not find him. The claimant testified that he calls to Little Rock each day after he finishes his job so he can check out but when he called the answering machine picked up and, therefore, he just left a message that he had finished his work and not that he had had an accident that day. The claimant testified that if he has a problem on the job, he is to call Mary Saxon in the respondent's Little Rock office. The claimant testified that he then went home and laid down because he had another job to go to that night.

The claimant testified that he has a second job with Joe Martin. The claimant testified that this job has him working at ABF cleaning restrooms and mopping floors. The claimant testified that this job takes him about an hour and a half to two hours each night. The claimant testified that he went to work the night of the 21<sup>st</sup> at ABF but he had problems doing his job. The claimant testified that he was hurting and sore but he did not say anything to Joe Martin. The claimant testified that the next morning he returned to work at UPS and did his regular job. The claimant testified that he saw personnel who worked for UPS management but he did not report any type of accident to them because he was feeling a little bit better. The claimant testified that by Wednesday night he was really in pain and that his wife suggested that he get some help. The claimant testified that he could not

sleep at all Wednesday night but he did get up the next morning and go to work at UPS and did his regular job. The claimant testified that during this day he had to dump a fifty-gallon trash barrel into a dumpster. The claimant stated that he estimated the trash barrel to weigh around seventy pounds and this really set his pain off. The claimant testified that that Thursday he called the respondent and talked to Dodie. The claimant testified that he was asked what was wrong and he told her that he had had an accident on Tuesday. The claimant testified that he told Dodie how his accident happened and she told him that Mary would get in touch with him. The claimant testified that Mary did not call him that day. The claimant testified that he went to work for Joe Martin that night but did not say anything to Joe because he did not think it concerned him.

The claimant testified that the next morning, Friday, he got up and went to Pro Med. The claimant testified that he again called Mary and got the answering machine and he told her that he was not going to be in to work that he had hurt his shoulder and neck and that he was going to the doctor. The claimant testified that he called and talked to Dodie when he got back from the doctor and told her that he had hurt his shoulder at work and needed to fill out a comp claim. The claimant testified that he was not scheduled to work at ABF that night but he did return to his job at ABF on Sunday night with his wife helping him because she worked out there with him. The claimant testified that he has not been back to work for the respondent nor for anyone else since that following

Monday. The claimant testified that he subsequently learned that his workers' compensation claim was being denied. The claimant stated that he has no funds to continue his medical treatment.

The claimant testified that he had given an incorrect statement to the respondent's insurance carrier concerning his work status following his injury. The claimant testified that he did not make them aware that he was working a second job with Joe Martin because he was in need of the money. The claimant stated that he was afraid that if he let them know he was working a second job it would jeopardize his right to receive medical treatment.

On cross examination, the claimant testified that it was the normal procedure for him to call in and call out to the respondent at the beginning and end of his work shift. The claimant testified that it was also not uncommon for him to get a recorder when he called the respondent. The claimant testified that when he hurt himself pulling on the chain he knew immediately that he had done something to his neck and shoulder but he did finish out his shift. The claimant indicated that even though he thought he needed medical treatment that day he did not ask anyone for medical treatment. The claimant agreed that when he called the respondent and got the recording, he did not mention anything about his accident. The claimant agreed that he worked his second job that evening and worked his regular shift for the respondent and his second job the following day. The claimant testified that on Friday, September 24, 2004, he called the respondent and talked to Dodie and told her that he had been to the doctor because he was having problems with

his neck and shoulder and he needed to talk to Mary. The claimant testified that he was told that Mary would have to call him back. The claimant testified that he was not able to speak with Mary until Monday and at that time he told her that he would not be coming back to work. The claimant testified that as of Monday following his accident on the September 21 he had resigned his position with the respondent. The claimant testified that it was after he had gone to the doctor and found all that was wrong with him that he talked to the respondent and terminated his employment. The claimant testified that when he first saw a doctor he reported a job related injury to his neck and right shoulder. The claimant testified that he did not tell the doctor that he was having problems with pain in his chest for the past two weeks. The claimant testified that the last day he worked for Joe Martin Janitorial was on September 26, 2004. The claimant testified that he has not applied for any job since leaving the respondent. The claimant testified that he has been denied unemployment benefits and he has applied for social security disability. The claimant testified that after he was seen by his first doctor, Mouhammed Sheikha, he was then seen by Dr. Capocelli. The claimant testified that he was first seen by Dr. Capocelli on December 13, 2004. The claimant testified that he did not tell Dr. Capocelli that he had been having neck and back pain for twenty-six years but he did tell the doctor that he has had back pain for twenty-six years. The claimant denied telling Dr. Capocelli that when he was pulling on a chain on September 21, 2004, he fell down and fell on his right

shoulder. The claimant testified that after seeing Dr. Capocelli, he was seen by Dr. Mumme and was subsequently diagnosed with having degenerative arthritis in his right shoulder. The claimant testified that he was aware that the MRI of his right shoulder did not show that he had anything wrong with his rotator cuff and that Dr. Mumme did not take him off work or state that he could not work.

On redirect examination, the claimant testified that he had gotten cross ways with a co-employee, Alan Soriano, about time off work. The claimant testified that when Mr. Soriano would not cover for him as agreed to he got mad and told Allen, that he was going to quit work on September 16. The claimant testified that he later changed his mind because he did not want to quit.

Allen Soriano testified that he had been working for the respondent for approximately four years and had been working with the claimant for the entire period the claimant had worked for the respondent. Mr. Soriano testified that he and the claimant did get cross ways about some time off work or covering for one another and that they both got mad at each other. This witness testified that at the UPS building there are several overhead doors which are raised or lowered by pulling on a chain. This witness testified that the chain will occasionally come off the wheel or track and when this happens the doors will not move because they are locked in place. Mr. Soriano testified that sometime in September or early October the claimant told him that he hurt his neck and shoulder pulling on the door chains. Mr. Soriano testified that he

did not pay much attention to the claimant after he told him that he had hurt himself because the claimant kept on working like he always had. Ms. Soriano testified that the claimant was not one to come in complaining about aches or pains.

On cross examination, Mr. Soriano testified that the claimant told him that he hurt himself pulling on the chains. This witness testified that the claimant never told him anything about a door coming off a track and how he hurt his arm and shoulder. This witness was shown Respondents' Exhibit No. 2 page 5 and agreed that what is set forth in the memo is an accurate statement. This witness agreed that the memo sets forth that the claimant worked last week Monday through Thursday, September 20 through 23, and never appeared to have any physical problems nor did he mention anything about hurting himself anywhere at home or at his job or anywhere else.

On redirect examination, there was some bit of discussion concerning this witness's present testimony and the memo which is filed with the respondents' documentary evidence. Mr. Soriano testified that he guessed that whatever date he signed the memo was the date the claimant told him that he had hurt his neck and shoulder pulling on the chain but that he continued to work normally.

Miles Spears testified that he is employed with UPS as the manager. Mr. Spears testified that he is familiar with the claimant as well as with Allen Soriano although they are not UPS employees. Mr. Spears testified that all injuries are supposed to

be reported to him because they would have happened in his building. This witness testified that the only way that there are problems with the overhead doors are when they are being opened incorrectly. Mr. Spears testified that about once or twice a month there is some problem with the overhead doors. Mr. Spears testified that the doors weight about six or seven hundred pounds and that when the chain comes off, the doors lock up and cannot be moved. Mr. Spears testified that he is usually there while the claimant is working but he is in and out, noting that often times he will go riding with a driver or meet with customers. Mr. Spears testified that he became aware that the claimant was no longer working at his building when he noticed that Allen was clearing all by himself. Mr. Spears testified that he may have heard about the claimant's injury from Mary or from Allen but was not sure.

On cross examination, Mr. Spears testified that the claimant never came to him and told him that he had injured himself while working in his building. Mr. Spears testified that there is no reason why he would go to lunch around 9:15 or 9:30 in the morning further indicating that his drivers are usually in the building during that time and he needs to get them out on their routes. Mr. Spears testified that when he is out of the building there are other supervisors there and there are always people manning the computers from 6:00 in the morning to 8:00 at night. Mr. Spears again stated that he would have wanted the claimant to come to him to report an injury since it happened in his building and he would want to keep his main office informed.

Celeste Bennett testified that she worked for Joe Martin Janitorial, Inc. as their payroll administrator, bookkeeping, supply person, indicating that she manages the company as far as anything administrative with the contract laborers. Ms. Bennett testified that she is familiar with the claimant and that he worked for Joe Martin Janitorial at the Arkansas Best Corporation office. Ms. Bennett testified that the claimant did not miss any work for Joe Martin Janitorial between September 21 and October 11. This witness testified that the claimant voluntarily terminated his employment with Joe Martin Janitorial. Ms. Bennett testified that she sent a letter to Mary Saxon with the respondent's business concerning the claimant (see Respondents' Exhibit 2 pages 7 and 8). Ms. Bennett agreed that this letter indicates that she had a discussion with the claimant on October 5 concerning his workers' compensation claim and wanting to be sure that it was not against Joe Martin Janitorial. Ms. Bennett testified that the claimant indicated that he was still going to work for Joe Martin Janitorial and that the claimant further told her that he was making a claim against the respondent to recover some expenses and losses he had had with them. Ms. Bennett agreed that in the letter to Mary Saxon it also sets forth that the claimant informed her that he had made some false statements to Farmer's Insurance to try to recover losses and expenses from the injury for his doctor's bills. Ms. Bennett identified some payroll checks indicating that the claimant got his last and final payment from Joe Martin Janitorial on October 14, 2004. Ms. Bennett testified that the claimant did call

in sick on Wednesday, October 6 and 7 but that he did return as scheduled on Sunday, October 8. Ms. Bennett testified that on October 11, a Monday, the claimant's wife called and asked if they could find someone to replace her husband indefinitely. Ms. Bennett testified that the claimant's wife told her that he would rather not return to work. Ms. Bennett testified that the claimant never came to her and told her that he was not physically able to do the work.

On cross examination, Ms. Bennett testified that when she spoke directly with the claimant he indicated that all he was wanting was additional income for losses received due to his injury. This witness was asked what she understood his losses to be and Ms. Bennett responded, "Medical bills, etc."

Dodie Osam testified that she works for the respondent overseeing the employees, taking care of customer accounts and general day to day operation of the business. Ms. Osam testified that she had dealt with the claimant only over the phone and had never seen him before this hearing. Ms. Osam testified that she would take the claimant's check in and check out calls as well as any problems he might have or matters he might need to discuss. Ms. Osam reviewed a memo which is a part of Respondent No. 2's Exhibits page 3 agreeing that it is dated September 27, 2004. Ms. Osam testified that she does memos of this type to document conversations whether it be an employee or a customer. Ms. Osam agreed that this particular memo concerned the claimant calling and leaving a message on Friday of the week after he said he had

injured himself on the 21<sup>st</sup>. Ms. Osam read her memo setting forth that he would not be in that day because he was going to see a doctor about his neck and shoulder, further stating that he was having major problems with his neck and shoulder and he would talk about it with her later. Ms. Osam testified that she also had a discussion with the claimant on October 27 which she documented with a memo as well. Ms. Osam testified that the claimant told her that he had bruised his neck and shoulder pulling a chain to close a door. This witness testified that she asked the claimant several times about how he hurt himself and he just kept telling her that he had hurt himself and needed to talk to Mary so she could take care of his insurance. Ms. Osam testified that before September 27, 2004, she had never heard any account of a work related injury from the claimant. Ms. Osam was shown a third memo dated October 4, 2004. This witness stated that this memo reflected a communication with the claimant concerning keys which they needed returned since he had quit working for them. Ms. Osam testified that at this time, the claimant kept asking her if they were going to pay his medical bills and get him some help. Ms. Osam testified that she told the claimant that the respondent could not do anymore than they were already doing that they had already filed it on his workers' comp.

On cross examination, Ms. Osam testified that it was not uncommon for the office to be empty for various times during the day because they are in and out working different accounts. Ms. Osam testified that that is why their system is set up to take

these check in and out calls so that they do not miss a phone call from an employee or a customer. Ms. Osam testified that the claimant called in on Friday, September 24 at 7:45 a.m. This witness testified that neither she or anyone else from the respondent's business returned the claimant's call. Ms. Osam testified that the claimant called in on Monday, September 27 at 8:59 in the morning and that is when she first knew about his allegation. Ms. Osam testified again that on the Friday call the claimant just indicated that he was not going to come into work and that he wanted someone to call. Ms. Osam testified that on Monday morning is when the claimant reported to her that he had hurt himself pulling on a chain trying to close the door. This witness again testified that when the claimant called in on Friday, September 24 he just reported that he was not going to be in to work.

On redirect examination, Ms. Osam testified that the memo which she typed concerning the September 24 recording was verbatim off of the recorder. This witness agreed that in this recording, the claimant only reported that he would not be in that he was going to see a doctor about his neck and shoulder because he was having major problems with them and would not be in that day and he would talk to them later.

Mary Dwyer testified that she was the owner of the respondent business and that the claimant had been working for them for approximately four years. Ms. Dwyer testified that she prepared a memo on September 28 after having a conversation with the claimant.

Ms. Dwyer testified that the claimant called her at 12:45 and asked for \$300.00 to pay for injuries on his neck and shoulder. This witness testified that the claimant told her that he was closing the overhead door and that the chain jerked. Ms. Dwyer testified that the claimant would not give her a reason why he had not reported his injury at the time it happened but just kept asking for money. Ms. Dwyer testified that all of the respondent's employees are instructed that if they have an injury they are to immediately contact the respondent's office and if they are not in to leave a message.

On cross examination, Ms. Dwyer testified that she had in her file the notice in writing that the claimant had signed after he had been instructed about reporting injuries when he first was hired. This document was introduced into evidence without objection. Ms. Dwyer testified that when she had her conversation with the claimant on the 28<sup>th</sup> besides him insisting on her sending her \$300.00, he also told her about injuring his shoulder while working with overhead doors. Ms. Dwyer testified that the claimant was easy to anger and that there were occasions when she had difficulty communicating with him. Ms. Dwyer testified that when she had a conversation with Allen, the claimant's co-worker, he did not reveal that the claimant had ever complained to him about having a stiff neck. Ms. Dwyer testified that she had heard Allen's testimony in the hearing today where he had testified that the claimant had complained to him about his neck and shoulder.

The medical records set forth that the claimant was seen at the Cooper Clinic on September 24, 2004, by Dr. Mouhammed Sheikha with complaints of muscle spasm and tenderness in the neck and right shoulder. The doctor notes that the claimant reports that he does a lot of lifting and pushing and that he is under the care of a chiropractor for his back pain. Upon examination, Dr. Sheikha writes that the claimant has severe muscle spasm to the point where he cannot straighten his neck and that his neck is bent to the left side. Dr. Sheikha prescribed medications for the claimant. The claimant underwent tests which revealed that he had moderate to mild degenerative changes of the acromioclavicular joint of the right shoulder. A film of the claimant's cervical spine revealed minimal degenerative changes of the claimant's cervical spine, noting that there is a small surgical wire in the posterior left aspect of the mandible level of the angle and that there is some smooth widening of the superior mediastinum. The claimant was seen at the emergency room of St. Edwards Mercy Medical Center on October 11, 2004, with complaints of right neck and shoulder pain. The claimant reports that his problems began a couple of weeks ago at work when the pulley slipped and yanked his arm. Upon examination, it is reported that the claimant does have some spasm in the paraspinals of the neck and he is also tender in the scalene triangle. Dr. James Wilson ordered an MRI of the claimant's cervical spine. The claimant underwent an MRI of his cervical spine on October 13, 2004, which revealed channel stenosis at C3-4,

C4-5 with secondary moderate disc bulge and spurs with tiny disc protrusion or spur at C7-T1 and T2-3.

The claimant was seen by Dr. Anthony Capocelli on December 13, 2004, where he reports a history going back twenty six years of neck and back pain. Dr. Capocelli writes that the claimant reports that over the last few years at his job he is having a lot of neck and back pain related to having to pull a chain on some type of door. Dr. Capocelli writes that the claimant reports that on September 21, 2004, he pulled it and the mechanism fell down and he fell apparently onto the right shoulder and since that time has been complaining of right shoulder and neck pain as well as back pain. Upon physical examination, the doctor notes that the claimant is holding his arms in a waxy rigidity and appears to have magnification of symptoms, further noting that the claimant does complain of pain holding his arm on the left side. Dr. Capocelli also reviewed the claimant's MRI and diagnosed the claimant with cervical spinal stenosis, degenerative as well as possible right shoulder injury. Dr. Capocelli writes that the claimant's predominate pain syndrome appears to be more likely of the right shoulder joint than to his neck. The doctor notes that the claimant's neck demonstrates possible long standing degenerative disease and it certainly would account for some of his neck pain. Dr. Capocelli recommended that he be referred for orthopedic evaluation and another MRI of his right shoulder blade, recommended physical therapy and medications. Dr. Capocelli recommended that

the claimant stay away from work that would require any kind of strenuous activity or put him at risk of injury.

The claimant was seen by Dr. Marvin Mumme on December 22, 2004, for his shoulder pain. After examination, the claimant had x-rays which showed some degenerative changes of the right AC joint otherwise the films did not show any evidence of heterotrophic calcification and no bony lesions. The claimant was diagnosed with degenerative arthritis of his right AC joint and Dr. Mumme injected his right AC joint and an MRI was recommended. The claimant underwent an MRI of his right shoulder on December 30, 2004, which revealed that he had no rotator cuff tear and he had very minimal edema or fluid in the subdeltoid bursa. Dr. Mumme writes on January 11, 2005, that he has seen the claimant for his right shoulder problems. The doctor notes that the claimant's MRI failed to show any evidence of a rotator cuff tear but notes that it does show some evidence of subacromial fluid which is questioned as bursitis. Dr. Mumme writes that he injected the claimant's subacromial bursa for bursitis of his right shoulder. Dr. Mumme writes that he does not find any problems with the claimant's right shoulder that should keep him from working and using his right shoulder.

After a complete review of this case, I find that the claimant has proven by a preponderance of the evidence that he sustained a temporary aggravation to his pre-existing degenerative disc disease in his neck on September 21, 2004, while working for the respondent. The medical records set forth that when the claimant

was first seen by a medical provider on September 24 he was experiencing severe muscle spasms in his neck and these same muscle spasms were present when he was seen at the emergency room at St. Edwards Mercy Medical Center on October 11, 2004. The claimant has testified to a specific incident happening while working on September 21, 2004, when raising or lowering an overhead door. The claimant's MRI of his cervical spine does reveal degenerative disc disease at several levels. The claimant did not report his injury until September 27, 2004, to the respondents, therefore, the respondents should only pay for medical treatment subsequent to September 27 up through Dr. Mumme who last saw the claimant on January 11, 2005. By the time the claimant was seen by Dr. Capocelli in December 2004 no muscle spasms were present and at that time Dr. Capocelli opined that perhaps the claimant's ongoing complaints, although magnified, involved his shoulder. Dr. Mumme's evaluation and testing of the claimant did not reveal any type work related injury. Therefore, I find that the claimant has failed to prove by a preponderance of the evidence that he sustained a compensable injury to his right shoulder on September 21, 2004. The medical records do not set forth any objective findings with the claimant's right shoulder and Arkansas law requires that objective findings must be shown in order to prove an injury which requires medical treatment. I further find that the claimant has failed to prove by a preponderance of the evidence that he is entitled to temporary total disability from September 22, 2004, to a date to be determined. None of the claimant's medical providers

have taken him off work and by the claimant's own testimony, he continued to work his second job following his compensable neck injury. Therefore, I find that this claimant is entitled to medical treatment for his cervical neck problem from September 27, 2004, up through January 11, 2005, for the temporary aggravation he sustained to his pre-existing degenerative disc problems.

#### FINDINGS & CONCLUSIONS

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On September 21, 2004, the relationship of employee-employer-carrier existed between the parties.

3. The claimant is entitled to a weekly compensation rate of \$209.00 for temporary total disability and \$157.00 for permanent partial disability.

4. The claimant has failed to prove by a preponderance of the evidence that he sustained a compensable right shoulder injury while working for the respondent on September 21, 2004. See discussion above.

5. The claimant has proven by a preponderance of the evidence that he sustained a compensable temporary aggravation to his pre-existing neck problems on September 21, 2004. See discussion above.

6. The claimant has failed to prove by a preponderance of the evidence that he is entitled to temporary total disability from September 22, 2004, to a date to be determined. See discussion above.

7. The claimant has proven by a preponderance of the evidence that he is entitled to reasonable and necessary medical treatment for his neck problems from September 27, 2004, through January 11, 2005, for the temporary aggravation to his pre-existing degenerative neck problems. See discussion above.

8. The claimant failed to appropriately report his injury to the respondents until September 27, 2004.

9. The respondents have controverted this claim in its entirety.

ORDER

The claimant has proven by a preponderance of the evidence that he sustained a temporary aggravation to his pre-existing neck problems on September 21, 2004, while working for the respondent.

The claimant failed to appropriately report his injury to the respondent until September 27, 2004.

The respondents should pay medical treatment for this claimant's temporary aggravation of his neck problems from September 27, 2004, through January 11, 2005.

The claimant has failed to prove by a preponderance of the evidence that he sustained a compensable right shoulder injury.

The claimant has failed to prove by a preponderance of the evidence that he is entitled to temporary total disability.

IT IS SO ORDERED.

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ELIZABETH DANIELSON  
ADMINISTRATIVE LAW JUDGE