

BEFORE THE WORKERS' COMPENSATION COURT OF EXISTING CLAIMS
STATE OF OKLAHOMA

FILED

In re claim of:

WORKERS' COMPENSATION COURT
STATE OF OKLAHOMA
September 25, 2015
Katrina Stephenson
COURT CLERK

ARTHUR WOODS)	
Claimant)	
)	Court Number: 2014-08679F
CITY OF NORMAN)	
Respondent)	
)	Claimant's Social Security
CITY OF NORMAN (OWN RISK #10970))	Number: xxx-xx-6672
Ins. Carrier)	

ORDER DETERMINING COMPENSABILITY AND AWARDED
PERMANENT PARTIAL IMPAIRMENT BENEFITS

Now on this 23rd day of SEPTEMBER, 2015, this cause came on for consideration pursuant to regular assignment and hearing on SEPTEMBER 10, 2015, before JUDGE OWEN T EVANS, at Oklahoma City, Oklahoma, at which time claimant appeared in person and by counsel, NICOLE LYNN BELL and respondent and insurance carrier appeared by counsel, JEANNE SNIDER.

The Court having considered the evidence and records on file, and being well and fully advised in the premises FINDS AND ORDERS AS FOLLOWS:

- 1 -

THAT claimant was employed by the above named respondent and such employment was subject to and covered by the provisions of the Workers' Compensation Code of the State of Oklahoma; and on JUNE 1, 2013, claimant became aware he had sustained accidental personal injury as a result of cumulative trauma to the RIGHT SHOULDER arising out of and in the course of claimant's employment. Claimant's last injurious exposure to said trauma was on NOVEMBER 27, 2013.

- 2 -

THAT the major cause of compensable cumulative trauma injury was heavy labor for more than thirty five (35) years for respondent. This included shoveling dirt and rock, doing concrete work, raking and shoveling asphalt, etc.

- 3 -

THAT claimant did not timely notify respondent of cumulative trauma injury. Claimant did not seem to be capable of understanding the difference between a single event injury and a cumulative trauma injury. Regardless, the Court finds that the rebuttable presumption against compensability was overcome by a preponderance of the evidence. This includes testimony and historical medical records which reveal "full thickness rotator cuff tear and impingement" of the right shoulder.

- 4 -

THAT at time of injury, claimant's wages were sufficient to establish the rates of compensation at \$771.00 per week for temporary total disability and \$323.00 per week for permanent partial impairment.

- 5 -

THAT as a result of said injury, claimant sustained 15 percent permanent partial impairment to the RIGHT SHOULDER, over and above pre-existing 3% (DEGENERATIVE CONDITION PER DR. YOUNG'S REPORT OF JANUARY 26, 2015), for which claimant is entitled to compensation for 75 weeks at \$323.00 per week, or the total amount of \$24,225.00 of which 75 weeks have accrued and shall be paid in a lump sum of \$24,225.00.

- 6 -

THAT respondent and/or insurance carrier shall pay all reasonable and necessary medical expenses incurred by claimant as a result of said injury.

- 7 -

THAT respondent or insurance carrier shall pay claimant the award herein in lump sum of \$24,225.00 (less attorney fee).

- 8 -

THAT Respondent shall pay court costs; Special Occupational Health and Safety Fund Tax of three-fourths of one percent (0.75%) of the amounts paid in lump sum of \$181.69 is levied against the Respondent; three-fourths of one percent of the continuing benefits awarded in this case shall be computed and paid as the same comes due. Pursuant to 85 O.S., Section 407, as amended by Laws 2013, HB 2201, c. 254, Section 49, eff. January 1, 2015, Respondent, if Own Risk, shall pay \$484.50 to the Workers' Compensation Administration Fund created by 85 O.S. Section 407, to be used for the costs of administering the Workers' Compensation Code as applicable to the Oklahoma Workers' Compensation Court of Existing Claims, representing two percent (2%) of the permanent disability award herein.

- 9 -

THAT pursuant to Title 85 O.S. Section 368, a final award fee of one hundred forty dollars (\$140.00) is taxed as a cost in this matter, and shall be paid by respondent.

- 10 -

THAT the sum of \$4,845.00 shall be deducted from the award herein and paid in lump sum to claimant's attorney as a fair and reasonable attorney fee; within twenty (20) days from the date of filing of this order, respondent or insurance carrier shall comply herewith.

BY ORDER OF:

/s/ *Owen T. Evans*
OWEN T EVANS, JUDGE

mw/CRichardson

A copy of the above and foregoing Court Order was mailed, by regular or Certified United States Mail, on this filed stamped date to:

Claimant's Attorney: RICHARD A BELL
3151 W TECUMSEH RD SUITE 100
NORMAN, OK 73072-

Respondent's Attorney: JEANNE SNIDER
PO BOX 370
NORMAN, OK 73070-

I do hereby certify that the above and foregoing is a true and correct copy of the original order signed by the Judge herein. Witness by my hand and the official seal of this court on this date.

Katrina Suplins

Court Clerk
September 25, 2015

