

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H207786

CLARENCE ELLIOTT, EMPLOYEE

CLAIMANT

**CITY OF LITTLE ROCK (SELF-INSURED),
RESPONDENT**

EMPLOYER

**RISK MANAGEMENT RESOURCES/ THIRD PARTY
ADMINISTRATOR/TPA**

RESPONDENT

OPINION FILED SEPTEMBER 12, 2023

Hearing held before ADMINISTRATIVE LAW JUDGE CHANDRA L. BLACK in Little Rock, Pulaski County, Arkansas.

Claimant represented by the Honorable B. Norman Williamson, Attorney at Law, Little Rock, Arkansas.

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

Statement of the Case

On June 14, 2023, the above-captioned claim came on for a hearing in Little Rock, Arkansas. A pre-hearing telephone conference was conducted on March 15, 2023, from which a pre-hearing order was filed that same day. A copy of the said order and the parties' responsive filings have been marked as Commission's Exhibit No. 1 and made a part of the record without objection.

Stipulations

During the pre-hearing telephone conference, and/or during the hearing the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. That the employee-employer-carrier relationship existed at all relevant times including on or about September 7, 2022.

3. The Claimant's average weekly wage was \$1,146.48, which entitles the Claimant to weekly compensation rates of \$764.00 and \$573.00.
4. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.
5. The Respondents have controverted this claim in its entirety.

By agreement of the parties, the issues litigated at the hearing were as follows:

1. Whether the Claimant sustained a compensable hernia injury.¹
2. Whether the Claimant is entitled to reasonable and necessary medical treatment.
3. Whether the Claimant is entitled to temporary total disability benefits for two and a half months.

Contentions

The respective contentions of the parties are as follows:

Claimant: The Claimant contends that he sustained a hernia injury while working for the respondent-employer on September 7, 2022. He also contends that he is entitled to reasonable and necessary medical treatment for his hernia repair surgery and two and a half months of temporary total disability compensation.

Respondents:

Respondents contend that Claimant did not suffer a compensable injury hernia injury under the Arkansas Workers' Compensation Act. There was no notice of an alleged injury until October 5, 2022.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on my review of the record as a whole, to include the aforementioned documentary evidence, other matters properly before the Commission, and after having had an opportunity to

¹ The medical records show that the Claimant suffered bilateral inguinal hernias.

hear the testimony of the witnesses and observe their demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. I hereby accept the above-mentioned proposed stipulations as fact.
3. The Claimant has failed to prove by a preponderance of the evidence that he sustained work-related hernias on September 7, 2022, while performing his employment duties for the City of Little Rock Fleet Services.
4. The remaining issues have been rendered moot by the above finding. Therefore, said issues are not addressed in this Opinion.

Summary of Evidence

The following witnesses testified: Mr. Clarence Elliott (the Claimant), Mr. Tony Lee Allen, Jr. (Claimant's coworker), and Mr. Douglas Meiggs (the Claimant's supervisor).

The record consists of the June 14, 2023 hearing transcript, comprising of the following exhibits: Specifically, Commission's Exhibit 1 includes the Commission's Prehearing Order of March 15, 2023 and the parties' responsive filings; Claimant's Exhibit 1 is a Medical Exhibit and encompasses thirty-six (36) numbered pages; Claimant's Exhibit 2 is Non-Medical Exhibit consisting of one page; and Respondents' Exhibit 1 is a Medical Exhibit, consisting of ten (10) numbered pages; and Respondents' Exhibit 2 is a Non-Medical Exhibit encompassing eight (8) totaled numbered pages.

Testimony

Mr. Clarence Elliott

The Claimant, age 56, testified that he works as an occupation technician II, for the City of Little Rock Fleet Services. He testified that he was at work, and he and Mr. Allen (a coworker) were doing a brake job on a truck when he sustained a hernia injury. The Claimant gave the following account of the incident:

A: ... I was on one side - - I was doing one side and he was doing the other side. And now, as we were doing the brake job, I got to – we got the tire off. As I went to take the drum off, I felt something like a pull or something. So when I pulled, I dropped it – I ended up -- I dropped the drum because it – because of the pain. And once I drop the drum, I can't -- Mr. Allen came over, like “Hey, what’s going on?”

A: Okay. After I dropped the drum, I set back – I sat down for a while because -- because of the pain. My supervisor was happening to be coming through at the time, and I told -- him, I said, “Man, I think I hurt -- I think I pulled something.” He made a joking remark, which we always doin, “Oh it’s just old age.”

The Claimant’s supervisor at that time was Douglas Meiggs. According to the Claimant, he told his supervisor he strained or pulled something, but it should be all right. The Claimant continued working that day. Per the Claimant, he completed his shift that day but could hardly lift anything. The Claimant testified that the drum weighed roughly 70-80 pounds. He denied that at the time of his alleged injury, management provided equipment assistance to lift heavy objects. However, now they provide equipment to help with lifting heavy objects.

On further direct examination, the Claimant confirmed that at the point of being engaged in pulling on the drum, the pain hit him instantly and he dropped it. The Claimant testified he did not start the steps to file a claim because he thought it was just a strain. He further testified that the pain became unbearable. So, he left work on October 4, and went to the emergency room.

The Claimant sought medical treatment from the Emergency Department of the VA Hospital. There, they examined the Claimant and did x-rays and a CT scan.

The Claimant denied having ever sustained a prior hernia from lifting heavy objects. He also denied ever having a hernia. According to the Claimant, after lifting the wheel he felt a sharp, pulling pain on his testicles. He further described the pain, among other things, as being the most excruciating, and nothing like what he had dealt with before. The Claimant confirmed that after the incident, the pain caused him to immediately stop working. According to the Claimant, he dropped everything and sat down. Per the Claimant, he had pain throughout the day, but he kept moving although it limited his work, particularly his ability to lift. The Claimant testified that he tried to make it day by day, but after the third week, the pain was just too much to bear. Between the time of the incident and filing his workers' compensation claim, the Claimant went home every evening after work and soaked in Epsom Salts. He denied having engaged in any sort of activities outside of work that required heavy lifting or strenuous effort prior to his indent at work.

Regarding the medical treatment he has sought for his hernia condition since the filing of his workers' compensation claim, the Claimant testified he sought medical treatment from the VA in Little Rock. His first medical visit was around October 4 or 5. Next, the Claimant had a follow-up visit, and then they scheduled the surgery for two weeks later because he did not have a bulge. However, according to the Claimant, they ended up bringing him in a week later because the hernia began to open.

The Claimant confirmed that he sought treatment at Concentra because the night after he had gone to the ER, he was telling his supervisor, Doug Meiggs, about it and he had him fill out the paperwork for a workers' compensation claim. He confirmed that company policy mandated that he go to Concentra because he had allegedly sustained a workplace injury. The Claimant

agreed that he is familiar with the medical records. His attention was directed to page 33 of a medical record from October 12, 2022. Per this medical record of October 12, the Claimant provided the doctor with a statement under the section of History of Present Illness, that reflected he started having symptoms on September 7, 2022. The Claimant admitted that he only told the doctor about his surgery being scheduled but did not tell him about his workplace incident.

However, at page 26 of the medical records, the Claimant denied telling the doctor his symptoms had been going on for three to four months. Instead, the Claimant maintained that he reported that his symptoms and pain had been going on for only three or four weeks.

The Claimant testified that his injury affected his ability to work. According to the Claimant, he was limited in his ability to lift tools, such as the impact guns, which weigh around 30 to 40 pounds. The Claimant confirmed that he experienced these problems until his hernia surgery was performed.

He admitted that he has returned to work and is able to perform majority of his job duties. The Claimant testified that now he uses the safety equipment to lift heavy objects. Following his incident with the drum, and prior to his surgery, the Claimant received help from his co-workers. According to the Claimant, Lucas Bruner helped him a lot with lifting heavy objects. He testified that Tony Allen, or just anyone also helped him to lift heavy tools.

The Claimant stated that the main detail to his claim is that he has worked for “these people,” and never lied to them. He has also been a minister over the last twenty (20) years.

On cross-examination, the Claimant confirmed his deposition was taken on March 7, 2023. He began working for the City of Little Rock in May 2012. The Claimant admitted he has had a few injuries while working for the city. He confirmed that he stated in his deposition that he had an injury when something fell into his eye. The Claimant agreed that his deposition testimony

shows that he has previously gotten something in his eye two or three times. He confirmed that each time, management sent him to Concentra for medical treatment.

Regarding his employment with the city, the Claimant started in the automotive department. After two or three years, he moved to the heavy trucks department, where he has remained since then. His job duties on the heavy trucks side entail lead tech, which include but is not limited to the training of the newly hired technicians and diagnostic-type work on the brakes. The Claimant also performs work as a second roll call guy, which means he goes out to repair the trucks on the side of the road. He confirmed that he testified during his deposition that he saw his supervisor, Doug Meiggs, in the shop on a regular basis. His office is near the shop. He went on to explain that he acts as a lead person and others treat him that way, but he is not paid for these duties.

The Claimant testified during his deposition that his injury occurred about three weeks before Thanksgiving 2022. However, the Claimant also testified during his deposition that he reported his injury on October 13, but it happened on September 8 or so. The Claimant further admitted that he had a calendar with him at his deposition. Per the Claimant, he testified that he reported his injury to Doug that day. He also testified that he worked at least three to four weeks before he went to the doctor. The Claimant confirmed that Tony Allen is a technician II as well as Lucas Bruner, but at that time he was a technician I.

He confirmed that he was doing a brake job on a truck when his injury occurred. The Claimant explained that he had taken off the tire, slack adjuster, and lugs because it was a dual tire. After that, he had to pull off the drum and it was during this process that the Claimant was injured. He confirmed he was on one side and Mr. Allen was on the other side. The Claimant testified during his deposition that the drum weighs 100 to 110 pounds, as opposed to his earlier

testimony. He confirmed that when replacing the brakes, he follows the same procedure in reverse to put everything back on. The Claimant testified that the brake shoes weigh about 20-30 pounds. He confirmed that he had to lift two drums back on the truck to complete the job.

According to the Claimant, it takes an hour for them to complete a brake job. He admitted that it took them another hour to complete the brake job after his injury. The Claimant also admitted that his injury occurred somewhere around lunchtime. However, per his deposition testimony, he testified his injury occurred that morning.

During his deposition, the Claimant testified he probably needed treatment the day the incident occurred but just figured it was a little strain and would just pass. He admitted that he did not say anything to Doug (Meiggs) about needing treatment that day. The Claimant explained the procedure for reporting an injury. He admitted he has known the procedure for a long time. Per the Claimant, he has this knowledge from being the union president for the last eight years. He admitted that he testified during his deposition that Doug did not know he had gone to the VA. The Claimant also went to the ER on his own and no one knew he was going.

Under further questioning, the Claimant admitted that he has no symptoms whatsoever since the surgery. He returned to work for the city on January 3, 2023. The Claimant confirmed he received the same pay while he was off due to his surgery. He admitted that his treatment at the VA did not cost him anything. His only out-of-pocket expenses have been for his medications.

The Claimant confirmed that he did not receive any treatment until October 4, which was the ER visit. During this visit, the Claimant reported that he noticed swelling in his groin area one week ago, along with some pain. The Claimant also confirmed that he had worsening pain for a long time and needed to have it addressed. He confirmed that initially it was painful with only certain maneuvers, but it became painful all the time.

Defense counsel asked the Claimant about his relationship with his coworkers. Per the Claimant, he is a friendly person and is friends with Doug Meiggs, Tony Allen, and Lucas Bruner.

Mr. Tony Allen, Jr.

Tony Lee Allen, Jr., testified on behalf of the Claimant. Mr. Allen admitted that he is one of the Claimant's coworkers. He confirmed that he worked with the Claimant on or around September 7. Mr. Allen testified that the Claimant strained himself taking of the rotors from a truck. He explained that the rotors are hard to remove because they sometimes have salt around them from the winter months and they get stuck.

Mr. Allen testified that a drum weighs around 80 pounds. He confirmed that he observed the Claimant after the incident, and he appeared to be fatigue. According to Mr. Allen, the Claimant told him he might have pulled something. He gave inconsistent and confusing answers concerning the Claimant having reported the incident. While testifying at one point in his testimony, Mr. Allen said the Claimant reported the incident that day. At another point in his testimony, he was not sure the Claimant talked to a supervisor soon after the completed the task. (Tr. 057-058)

On cross-examination, Mr. Allen confirmed that he testified earlier about an incident with the rotors. He admitted that the Claimant got injured trying to take the rotors off the truck. Mr. Allen said the incident occurred around 9:00 a.m. or 10:00 a.m. he admitted that the Claimant completed the brake job and put everything back together. Mr. Allen also confirmed that the Claimant continued to work several weeks after the incident. He confirmed that he and the Claimant are friends.

Mr. Douglass Meiggs

Mr. Meiggs was called as a witness for the Respondents. He testified that he works for the

City of Little Rock. He confirmed that he has been with the city for eleven (11) years. His employment duties involve the heavy equipment, the dump trucks, backhoes, dozers, salt dozers, and equipment of that nature. According to Mr. Meiggs, he is responsible for maintaining and the repair work on these machines. He confirmed that he is the Claimant's direct supervisor. Mr. Meiggs gave an overview of the process for an employee to report an injury. (Tr. 077)

He was shown a copy of the Form AR-N for this claim, which is dated October 5, 2022. Mr. Meiggs stated that prior to that date, he did not have any idea that the Claimant was claiming an injury. The first Mr. Meiggs heard of a hernia injury was one morning while standing around the clock, when the Claimant came in and said he was going to have to fill out a sheet because he had a doctor's appointment. Per Mr. Meiggs, the Claimant said he had a hernia, and that was all he said. However, he denied that the Claimant said anything about it being a work injury. Per Mr. Meiggs, the Claimant did not say anything about it being a work injury or anything of that nature.

Mr. Meiggs denied that he was aware of an alleged injury before October 5. He confirmed hearing the Claimant's testimony about an injury having been reported on September 7. Mr. Meiggs did not recall walking by and seeing the Claimant sitting down as he claims. According to Mr. Meiggs, Tony Allen was assigned repairs on that truck, and he was not aware the Claimant was assisting him with the repair.

He confirmed that he was aware they had an older model dolly in the shop to help with lifting heavy equipment. Mr. Meiggs confirmed that after the Claimant reported this incident, their fleet manager bought a newer dolly.

Mr. Meiggs confirmed that from September 7, 2022, until when the Claimant went to the emergency room, he performed his regular duties. According to Mr. Meiggs, he was not aware of anything going on. Mr. Meiggs agreed he saw the Claimant on a regular basis. He testified that

if he had just blown the Claimant off as he alleges, the Claimant should have gone to his supervisor, the fleet manager. However, this did not happen. Per Mr. Meiggs, neither Lucas Bruner or Tony Allen is the Claimant's supervisor, they are just coworkers and friends.

On cross-examination, Mr. Meiggs denied that the Claimant reported any sort of strain or discomfort prior to reporting his alleged workers' compensation claim. Nor did he recall the Claimant having engaged in a conversation about an injury or lack of equipment. Mr. Meiggs testified that although at the time of the Claimant's workplace injury they had a drum dolly machine to help with the lifting of drums, it did not malfunction because it was a two-wheeled machine. It was an older machine, but there was nothing that was malfunctioning or not usable about it.

Under further questioning, Mr. Meiggs explained:

Q: Do you know the reason that you -- you guys replaced it was with -- with a new one if it was completely adequate to do the job?

A: Well, it is my understanding after the -- the incident was brought up, they said that the -- I guess they felt the one we had was not sufficient.

Upon being questioned by the Commission, Mr. Meiggs was asked if he had any knowledge of any activities that the Claimant could have been engaged in that would have caused him to have a hernia injury. He answered: "You know, when I see the guy on or about that time with a motor on the back of his truck, it makes you wonder but..."

On redirect examination, Mr. Meiggs said that the Claimant had the motor in the back of his personal vehicle. He confirmed that he had heard the Claimant had his own business called Phase One Auto. This business was something outside of the Claimant's work for the city.

Upon recross examination, Mr. Meiggs testified that he does not have a clue as whether the Claimant is engaging in any heavy lifting or strenuous activities with Phase One Auto.

Medical Evidence

On October 4, 2022, the Claimant sought medical treatment from the Emergency Department/ED, at the Central Arkansas Veterans Health Care System. He reported shooting pain from his groin to his shoulder. Initially his pain was only with certain movements, but now painful all the time. At that time, the Claimant reported that the pain had been worsening for “a long time” and needed to be addressed. The Claimant underwent a COMPLETE CT OF THE ABDOMEN AND PELVIS WITH CONTRAST due to right lower quadrant abdominal pain. Dr. Robert Jimmerson II, was the referring physician. A Preliminary Report with full report to follow was initially generated. The following findings were provided to the care team:

Right sided moderate sized fat containing inguinal hernia with fat stranding, fluid and thickening of the hernia sac. Correlate for clinical signs of irreducibility due to concern for strangulation. Uncomplicated left fat containing inguinal hernia.

A final report was provided which showed comparison of a CT of the ABDOMEN done 12/7/2019; ABDOMEN 6/19/2019. The primary interpreting radiologist was Dr. Thomas N. Davis. His final impression was: “Bilateral fat-containing inguinal hernias, potential associated inflammation on the right as noted in the preliminary report.” No indication for acute surgical intervention was indicated at that time.

Next, the Claimant underwent evaluation at Concentra Health Center, on October 5, 2022, due to continued abdominal pain. The Claimant reported that he had been seen at the VA and a CT scan confirmed bilateral inguinal hernias. He stated that he had an appointment with a surgeon scheduled, which he planned to attend. Clinton Bearden, PA, evaluated the Claimant and assessed

him with bilateral inguinal hernias, for which he prescribed medications and placed physical restrictions on him.

On November 9, 2022, the Claimant underwent his first postoperative visit with Dr. Kimberly Jackman at the VA's General Surgery Center. The Claimant said that he was having some pain and discomfort in his scrotum and his lower abdomen with movement. Per this post-surgery note, Dr. Jackman discussed with the Claimant that this was normal postoperative course and that it would resolve over time. However, the Claimant said that he was improving daily.

The Claimant underwent a follow-up evaluation on December 14, 2022, at the VA following his surgery. Per this surgery note, the Claimant underwent robotic repair of bilateral hernias on October 27, 2022. The Claimant reported that he was feeling better than he was during the last visit. At that time, his swelling and pain had improved. He continued to have pain "here and there," and around the testicles. The Claimant described his pain as a pinching pain, which was relieved by him making certain manual adjustments. On physical examination the Claimant's small mass was palpated by Dr. Jackman but no noticeable inguinal hernias demonstrated. His pain remained the same since surgery with slow and mild improvements. The Claimant's FMLA was extended to January 3, 2023. His restrictions were continued which included no lifting of any heavy objects until he was cleared to go back to work.

Adjudication

Compensability

Here, the Claimant has essentially asserted that he sustained hernia injuries during and in the scope of his employment with this respondent-employer on September 7, 2022. A CT scan performed on October 4, 2022, at the VA demonstrates that the Claimant suffered "Bilateral fat-

containing inguinal hernias.” The burden rests on the claimant to prove all the elements necessary to establish his alleged bilateral inguinal hernias injuries.

The requirements for the compensability of this injury are set forth in Ark. Code Ann. §11-9-523(a). Specifically, this subsection provides:

In all cases of claims for hernia, it shall be shown to the satisfaction of the Workers’ Compensation Commission:

- (1) that the occurrence of the hernia immediately followed as the result of sudden effort, severe strain, or the application of force directly to the abdominal wall;
- (2) that there was severe pain in the hernial region;
- (3) that the pain caused the employee to cease work immediately;
- (4) that notice of the occurrence was given to the employer within forty-eight (48) hours thereafter; and
- (5) that the physical distress following the occurrence of the hernia was such as to require the attendance of a licensed physician within seventy-two (72) hours after the occurrence.

The record shows that the Claimant sustained bilateral inguinal hernias. Therefore, the requirements of the foregoing hernia statute will apply.

After considering all the evidence presented, I am persuaded that the Claimant’s testimony concerning the sequence of events surrounding his alleged work-related incident of a workplace injury on September 7, 2022, is not credible and does not set forth an accurate account of these events. I have reached this conclusion because among other things, the Claimant’s testimony is not corroborated by the medical evidence of record, or his own witness, Mr. Allen’s narration of the sequence of the events nor by Mr. Meiggs’ testimony.

Here, the Claimant alleges he had a work-related accident on September 7, 2022, which resulted in bilateral hernia injuries. However, he did not seek medical attention until some twenty-seven (27) days later, which was on October 4, 2022. Clearly, any workplace activity the Claimant was involved in on September 7, did not require the attendance of a licensed physician with

seventy-two (72) hours as mandated by the statute. To the contrary, medical report dated October 4 shows that the Claimant had been experiencing problems for three to four months before seeking medical attention. Although the Claimant maintained that this medical record is not accurate and should have reflected three to four weeks, instead of three to four months, I am not persuaded that this is not a clerical error considering further down in this report, there is a notation of the Claimant reported that the problem had been worsening for a long time and needed to be addressed.

While the Claimant maintained he was removing a drum from a wheel when his injury occurred, Mr. Allen testified that they had been taking turns hammering to remove a rotor. Of great significance, is the fact that the Claimant continued working from September 7 until his surgery in late October. No probative evidence was presented showing that the Claimant's hernias resulted from a sudden effort, severe strain, direct application of force to the abdominal wall, or that he ceased working due to pain. Mr. Allen's testimony proves that they were simply fatigued from hammering to remove the rotor, which was difficult to remove due to an accumulation of salt and other residue. As a result, they both rested and resumed working on the truck. The Claimant was able to complete the brake job and his shift, and as noted above he continued several weeks thereafter. There is no documentation whatsoever showing that the Claimant made a request to management for any type of accommodations in performing his employment duties, which required heavy lifting and very strenuous work activities.

The instant Claimant is a highly intelligent and well-read individual. He has worked for the city since 2012 and served as president of the union for the last eight (8) years. The Claimant has had more than a couple of workplace injuries with the city. He also acts and is recognized as a team leader among his colleagues. Although for these reasons I found the Claimant to be very knowledgeable and familiar with the procedure for filing a workers' compensation claim, in this

instance I am persuaded he did not meet the 48-hour notice requirement for reporting the injury to his employer, and nor did he follow the process. In fact, Mr. Allen gave conflicting and confusing testimony in this regard. As such, I did not find him to be credible about the Claimant reporting of the alleged injury to his supervisor, Mr. Meiggs. He [Mr. Allen] and the Claimant are also good friends. Nevertheless, I found Mr. Meiggs to be a credible witness. Mr. Meiggs credibly testified that the Claimant did not report an injury to him until October 5, which is significantly more than forty-eight hours after the alleged workplace activity. In addition to this, Mr. Meiggs testified that the Claimant was not assigned to perform the repairs on the vehicle that he allegedly got injured on. There was evidence proving that the Claimant was engaged in heavy lifting activities outside of his work with the city, which entailed work for his own personal automotive repair business around the same time that he sustained the hernia injuries. However, the denied having engaged in any strenuous activities outside of work.

I think it is noteworthy that the surgical report was not made a part of the record. Moreover, no history of a workplace injury was reported by the Claimant in any the initial medical notes.

In my opinion, that it would require sheer speculation and conjecture to attribute the Claimant's hernias to his employment duties. Conjecture and speculation, however, plausible, cannot be allowed to supply the place of proof. *Dena Construction Company v. Hearndon*, 264 Ark. 791, 575 S.W. 2d 155 (1979); *Arkansas Methodist Hospital v. Adams*, 43 Ark. App. 1, 858 S.W. 2d 125 (1993). Obviously, the Claimant honestly believes his hernias are related to his employment. However, no matter how sincere a Claimant's belief that a medical problem is related to a compensable workplace injury, such belief is not sufficient to meet the Claimant's burden of proof. *Killingberger v. Big "D" Liquor*, AWCC E408248 and E408249, Full Commission Opinion August 29, 1995.

To summarize, the Claimant has failed to prove by a preponderance of the evidence that he suffered compensable bilateral inguinal hernias while performing his employment duties for the city on September 7, 2022.

Additionally, the remaining issues of medical treatment, temporary total disability and a controverted attorney's fee have been rendered moot and not addressed in this Opinion.

Order

Based on the foregoing findings of fact and conclusions of law, I find that the Claimant failed to meet his burden of proof that he sustained workplace hernias while working on September 7, 2022. Therefore, this claim is hereby respectfully denied and dismissed in its entirety.

IT IS SO ORDERED.

**HON. CHANDRA L. BLACK
ADMINISTRATIVE LAW JUDGE**