

BEFORE THE KANSAS WORKERS COMPENSATION APPEALS BOARD

JENNIFER KOERPERICH	)	
Claimant	)	
V.	)	
	)	AP-00-0492-914
MASONITE CORP.	)	CS-00-0483-985
Respondent	)	
AND	)	AP-00-0492-915
	)	CS-00-0483-986
TRAVELERS PROPERTY CASUALTY CO.	)	
OF AMERICA	)	
Insurance Carrier	)	

ORDER

Claimant appeals the October 24, 2025, preliminary hearing Order entered by Administrative Law Judge (ALJ) Brian Brown.

APPEARANCES

William L. Phalen appeared for Claimant. Mark Hoffmeister appeared for Respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Board has adopted the same stipulations and considered the same record as did the ALJ, consisting of the Evidentiary Deposition of Jennifer Koerperich taken March 17, 2025; Transcript of the Preliminary Hearing from September 9, 2025; Evidentiary Deposition of Haydn Kyser taken September 19, 2025, with exhibits attached; Evidentiary Deposition of John Collins taken September 19, 2025, with exhibits attached; Evidentiary Deposition of Josh Wools taken September 19, 2025, with exhibits attached; Dr. Kellenberger Records; Freeman Medical Records; IME Report of Pedro A. Murati, M.D. dated September 13, 2024; and the documents of record filed with the Division and the parties' briefs.

ISSUE

Did Claimant meet her burden of proof she gave timely proper notice of a work related injury?

FINDINGS OF FACT

Claimant worked for Respondent as a wood kitter. This job required her to pull strikes off pallets and transport them to a table and attach lock blocks to them. The strikes weigh 2 to 3 pounds and are 29 to 95 inches in length. At times, she had to reach overhead with arms outreached to attach lock blocks.

On September 12, 2023, Claimant was unloading strikes from a pallet onto a cart and then onto a worktable. As she put the strike down, her left shoulder made a popping noise. Claimant reported to John Collins, the lead man, her shoulder just made a popping noise when she was putting strikes down and she had a lot pain in her shoulder. Mr. Collins' response was "well are you still able to work." Claimant's response was "I guess I can." Claimant was then told to get back to work.¹

The next day, Claimant continued to have pain in her left shoulder and went to her primary care physician, Dr. Rick Kellenberger. Claimant was diagnosed with tendonitis and was given a cortisone injection. She was taken off work for three days. Claimant returned to work and continued to perform her usual job duties. Claimant continued to experience pain in her left shoulder.

On December 18, 2023, Claimant was pulling strikes and this time her right shoulder popped. Claimant reported this to Josh Wools, the lead man. She told him she was pulling strikes off the pallet and her right shoulder popped, and her right shoulder hurt really bad and she thought she needed to see someone. His response was to ask her if she was able to continue working and Claimant told him yes.²

Claimant testified the repetitiveness of pulling the strikes down, grabbing the lock blocks, and assembling them together, caused her pain to worsen. This involved a large stapler attached to a bar that has to be pressed hard to get the items attached.

Claimant continued to work despite pain in both shoulders. At times, she would leave work early due to the pain.

When Respondent did not send her to the doctor for her right shoulder, she went back to see Dr. Kellenberger on December 19, 2023. Claimant was given an injection. Claimant continued treating with Dr. Kellenberger, and was eventually referred to a orthopedic specialist, Dr. Robert K. Lieurance.

¹ Claimant's Depo. at 11.

² *Id.* at 17.

Claimant first saw Dr. Lieurance on April 23, 2024. Claimant completed a medical history form for Dr. Lieurance. The form specifically asked if Claimant's complaints were due to a work injury and Claimant responded "no".³

Dr. Lieurance initially treated Claimant with physical therapy, diagnostic testing, work restrictions and medication. His diagnosis was bilateral AC joint degenerative joint pain and impingement syndrome of the right shoulder. Claimant had surgery with Dr. Lieurance on June 24, 2024, on her right shoulder, an arthroscopic right distal clavicle resection and arthroscopic extensive debridement right shoulder including subacromial bursa and left side of the acromion. Claimant was released with no restrictions on July 6, 2024.

On April 10, 2024, Claimant was observed by Mr. Wools, the lead man, doing a task less strenuous than her primary job duties. He questioned why she was doing such a task and she should return to her usual job duties. Claimant told him she was unable to perform her primary job duties due to shoulder pain. Claimant was told if she could not perform the job fully, she should go home and file for short-term disability. Respondent provided no light duty. This was the last day Claimant worked.

The employer's evidence is testimony from Haydn Kyser, Human Resources Manager, Josh Wools, lead man and John Collins, lead man. All three testified Claimant did not claim her shoulder complaints were due to work. If Claimant had reported a work injury, certain procedures would have been followed and certain paperwork filed.

Claimant met with Ms. Kyser in April to file for short-term disability because Claimant was advised not to work. According to Ms. Kyser, Claimant did not tell her the shoulder complaints were work related. According to Ms. Kyser, if Claimant's shoulder complaints were work related Claimant would not have been eligible for short-term disability and would have been referred to the safety manager.

Both Mr. Wools and Mr. Collins testified that on both occasions when Claimant reported shoulder pain, Claimant was sent back to work because she told them she could continue to work. Mr. Wools indicated in an incident report dated April 9, 2024, Claimant was having problems with her shoulders but it was a preexisting condition. Claimant's signature is on the form indicating her complaints were not work related.

The ALJ ruled Claimant has not met her burden to establish by a preponderance of the credible evidence she provided timely and sufficient notice of work related injuries.

³ P.H. Trans. (Sept. 9, 2025), Resp. Ex. F, Medical history Update dated April 23, 2024, at 9.

PRINCIPLES OF LAW AND ANALYSIS

Claimant argues the ALJ erred in his finding Claimant had not met her burden of proof she provided timely and sufficient notice of a work related injury to Respondent.

Respondent argues the ALJ's order should be affirmed because Claimant has not met her burden of proof to establish by a preponderance of the credible evidence she provided timely and sufficient notice of work related injuries to Respondent.

K.S.A. 44-508(h) states:

"Burden of proof" means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record unless a higher burden of proof is specifically required by this act.

K.S.A. 44-501b© states:

The burden of proof shall be on the claimant to establish the claimant's right to an award of compensation and to prove the various conditions on which the claimant's right depends. In determining whether the claimant has satisfied this burden of proof, the trier of fact shall consider the whole record.

K.S.A. 2023 Supp. 44-520 states:

(a) (1) Proceedings for compensation under the workers compensation act shall not be maintainable unless notice of injury by accident or repetitive trauma is given to the employer by the earliest of the following dates:

(A) 20 calendar days from the date of accident or the date of injury by repetitive trauma;

(B) if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, 20 calendar days from the date such medical treatment is sought; or

(C) if the employee no longer works for the employer against whom benefits are being sought, 10 calendar days after the employee's last day of actual work for the employer.

Notice may be given orally or in writing.

(2) Where notice is provided orally, if the employer has designated an individual or department to whom notice must be given and such designation has been

communicated in writing to the employee, notice to any other individual or department shall be insufficient under this section. If the employer has not designated an individual or department to whom notice must be given, notice must be provided to a supervisor or manager.

(3) Where notice is provided in writing, notice must be sent to a supervisor or manager at the employee's principal location of employment. The burden shall be on the employee to prove that such notice was actually received by the employer.

(4) The notice, whether provided orally or in writing, shall include the time, date, place, person injured and particulars of such injury. It must be apparent from the content of the notice that the employee is claiming benefits under the workers compensation act or has suffered a work-related injury.

(b) The notice required by subsection (a) shall be waived if the employee proves that (1) the employer or the employer's duly authorized agent had actual knowledge of the injury; (2) the employer or the employer's duly authorized agent was unavailable to receive such notice within the applicable period as provided in paragraph (1) of subsection (a); or (3) the employee was physically unable to give such notice.

(c) For the purposes of calculating the notice period proscribed in subsection (a), weekends shall be included.

Neither Claimant nor Respondent's evidence is particularly persuasive as to whether Claimant gave timely, proper notice.

Claimant's testimony is when she injured her left shoulder on September 12, 2023, and then her right shoulder on December 18, 2023, she told the lead man on duty she was pulling down strikes and her shoulder popped with an immediate onset of pain. Both times the lead man asked Claimant if she was still able to work. Claimant responded she thought she could continue to work and Claimant was instructed to get back to work.

Respondent provided testimony from both lead men and the HR director that if Claimant had reported she hurt her shoulders at work certain action would be taken and paperwork completed. But none recalled Claimant reporting a work related shoulder injury on September 12 or December 18. According to HR Director Haydn Kyser, Claimant contacted her about receiving short term disability and did not report a work accident.

The veracity of Claimant's testimony about injuring her shoulder at work is undermined by Claimant's interaction with medical providers when she sought medical treatment for her shoulders. If Claimant reported a work related injury to management it

logically follows she would have reported suffering a work related injury to health care providers she selected. There is no reference in the medical records Claimant is being treated for a work injury. A medical history update Claimant completed on April 24, 2024, specifically asked if the shoulder complaints were due to a work injury and Claimant said "no".

While Respondent's witnesses may not be particularly impressive, they are consistent with Claimant not reporting a work related injury. Under these facts, Respondent's witnesses are more credible than Claimant's testimony regarding notice. Therefore, Claimant did not prove she gave proper notice that she either sustained a work related injury or sought workers compensation benefits within the time mandated by statute.

It is found and concluded Claimant has not satisfied the burden of proof she gave proper, timely notice of an alleged work injury to Respondent. The burden of proof is on Claimant to prove by the preponderance of the evidence she gave timely, proper notice. Claimant has not done so. Claimant is denied workers compensation benefits.

DECISION

WHEREFORE, it is the finding, decision and order of the undersigned Board Member the Order of ALJ Brian Brown, dated October 24, 2025, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of January, 2026.

REBECCA SANDERS
BOARD MEMBER

c: Via OSCAR

William L. Phalen, Attorney for Claimant
Mark Hoffmeister, Attorney for Respondent and its Insurance Carrier
Hon. Brian Brown, Administrative Law Judge