

**PERMANENT IMPAIRMENT EVALUATION AWARDS**

---Lumbar Spine [16% WP] [\$1,980]

---Ankle [20% WP] [\$3,960]

---Pelvis, Lumbar Spine and Wrist [22% WP] [\$4,950]

---Cervical Spine and Bilateral Shoulders [43% WP] [\$35,640]

---Bilateral Hips, Knee, Thoracic and Lumbar Spine [46% WP] [\$39,690] (\*2006 rate)

---Heart and Left Shoulder [56% WP] [\$75,240]

**PERMANENT IMPAIRMENT SCHEDULED INJURY AWARDS**

---4<sup>th</sup>/little finger at first joint [10 PIM] [\$1,980]

---1<sup>st</sup>/index finger at first joint [22 PIM] [\$4,158] (\*2006 rate)

---3<sup>rd</sup>/ring finger at middle joint [16 PIM] [\$3,168]

---1<sup>st</sup>/index finger at the second joint [28 PIM] [\$5,544]

---Foot including all toes [30 PIM] [\$5,940]

---1<sup>st</sup>/index finger @ 3<sup>rd</sup> joint, entire digit [40 PIM] [\$7,920]

---Below the Knee [150 PIM] [\$28,350]

## ORDER OF NORTH DAKOTA WORKFORCE SAFETY AND INSURANCE (WSI)

**Claimant:** Ron Moxon  
**Date of Birth:** 12/18/1900  
**Claim No:** 2007000000  
**Date of Claimed Injury:** 10/18/2007  
  
**Occupation:** Floor Walker  
**Employer:** Bubba's Bingo Palace  
**Employer Account No.:** 2000000  
  
**Area of Claimed Injury:** Neck and soft Tissue  
  
**Decision:** This claim is denied

---

### FACTUAL BACKGROUND

**October 18, 2007:** Claimant was seen by chiropractor, Dr. Anderson, for complaints of cervical and thoracic pain. Claimant indicated that his symptoms started after a lifting incident at home over the weekend. Claimant was diagnosed as having cervical pain, thoracic pain, and degenerative disc disease.

**October 22, 2007:** Claimant followed up with Dr. Anderson. Claimant complained of constant upper cervical and mid thoracic pain. Claimant denied any radiating pain, and indicated her condition is 50% improved.

Claimant continued to receive chiropractic treatment from Dr. Anderson. Claimant was treated by Dr. Anderson on October 26, 28, and 29, 2007. There is no documentation of a work related injury in the medical notes.

**October 29, 2007:** WSI received a First Report of Injury (FROI) regarding an alleged injury to claimant's left shoulder and neck. The date of injury documented on the FROI was October 18, 2007, and the following description of injury was provided: "Lifting basket of coins from shelf". Claimant indicated he notified his employer of the injury on October 26, 2007.

The employer has indicated that claimant did not report his alleged injury until October 29, 2007.

**October 31 through November 13, 2007:** Claimant received additional chiropractic care from Dr. Anderson. On November 2, 2007, neuritis was added to claimant's diagnosis. On November 13, 2007, Dr. Anderson recommended that claimant be evaluated by his primary care physician. There is no documentation of a work related injury in the medical notes.

**November 14, 2007:** An MRI of claimant's cervical spine showed multilevel chronic appearing degenerative changes, reversal of lordosis, and stenosis.

**November 27, 2007:** WSI issued a Notice of Decision Denying Benefits finding claimant had not proven a compensable injury by accident arising out of and in the course of his employment.

**December 18, 2007:** Claimant requested reconsideration of WSI's decision denying this claim. Claimant indicated he listed the wrong date of injury on his application for benefits, and that his injury actually occurred on October 25, 2007. Claimant also indicated that payment for his initial

treatment was submitted to his private insurance carrier as he did not plan on filing for workers compensation benefits, and only did so when his condition did not improve.

### FINDINGS OF FACT

There is insufficient evidence to substantiate claimant sustained a work related injury on October 18 or 25, 2007. Claimant has provided inconsistent information regarding the date of his alleged injury, initially indicating he was injured on October 18, 2007, but later indicating his injury occurred on October 25, 2007. If his injury occurred on October 25, 2007, he was actively receiving treatment to his cervical, thoracic, and lumbar spine for a lifting injury that occurred at home the weekend of October 13<sup>th</sup>, as documented in the chiropractic notes dated October 18, 2007. In addition, claimant's MRI dated November 14, 2007, shows findings consistent with a pre-existing, degenerative cervical spine condition. There is no objective medical evidence demonstrating that the injury occurring on or about October 13, 2007 resolved, nor is there any objective evidence that claimant's work activities on October 18 or 25, 2007 substantially accelerated or worsened the pre-existing cervical spine condition. In fact, there is no documentation of a work related injury in the medical notes.

WSI has not received any objective medical evidence establishing a causal connection between claimant's neck and left shoulder symptoms, and his employment activities on October 18 or 25, 2007.

### CONCLUSIONS OF LAW

Claimant has the burden of proving by a preponderance of the evidence that he is entitled to benefits under the North Dakota Workers Compensation Act. *N.D.C.C. § 65-01-11*.

A compensable injury means an injury by accident arising out of and in the course of employment which must be established by medical evidence supported by objective medical findings. Injuries attributable to a pre-existing injury, disease, or other condition are not compensable including when the employment acts as a trigger to produce symptoms in the pre-existing injury, disease, or other condition unless the employment substantially accelerates its progression or substantially worsens its severity. *N.D.C.C. §65-01-02*. Claimant has not proven with objective medical evidence that his cervical spine or left shoulder symptoms were caused, substantially accelerated, or substantially worsened by her work activities; therefore, she is not entitled to benefits on this claim.

### ORDER

This claim is denied.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

WORKFORCE SAFETY AND INSURANCE

\_\_\_\_\_  
Kim Ehli  
Claims Director

John Halvorson  
Interim Director/CEO



## Workforce Safety & Insurance

*To us, it's personal.*

[www.WorkforceSafety.com](http://www.WorkforceSafety.com)

1600 East Century Avenue, Suite 1  
PO Box 5585  
Bismarck ND 58506-5585

February 5, 2008

Ron Moxon  
4000 Wonder Way  
Bismarck, ND 58503

Bubba's Bingo Palace  
1807 Front Ave.  
Bismarck, ND 58504

Injured Worker: Ron Moxon  
Claim No. 2007000000  
Body Part: Neck-Soft Tissue

Birth Date: 12/18/1900  
Injury Date: 10/18/07

### NOTICE OF DECISION

Please read this notice carefully as it may require action within 30 days. This notice is to inform you of Workforce Safety & Insurance's (WSI) decision to deny benefits

There is insufficient evidence to substantiate you sustained a work related injury on October 18 or 25, 2007.

Your claim for workers' compensation benefits is denied because:

A "compensable injury" means an injury by accident arising out of and in the course of employment which must be established by medical evidence supported by objective medical findings.

You have provided information regarding the date of your alleged injury, initially indicating you were injured on October 18, 2007, but later indicating your injury occurred on October 25, 2007. If your injury occurred on October 25, 2007, you were actively receiving treatment to your cervical, thoracic, and lumbar spine for a lifting injury that occurred at home the weekend of October 13<sup>th</sup>, as documented in the chiropractic notes dated October 18, 2007. In addition, your MRI dated November 14, 2007, shows findings consistent with a pre-existing, degenerative cervical spine condition.

There is no objective medical evidence demonstrating that the injury occurring on or about October 13, 2007 resolved, nor is there any objective evidence that your reported work activities on October 18 or 25, 2007 substantially accelerated or worsened the pre-existing cervical spine condition which is required to award benefits. There is no documentation of a work related injury in the medical notes. As a result, your claim is denied.

**If you feel this decision is incorrect, please respond, in writing, within 30 days of the date of this Notice requesting a review.** You must explain why you think the decision is wrong and what you think the correct decision should be. Please enclose any additional information for WSI to consider. Please be advised that the request for reconsideration must be in writing from you, not your physician. If you do not submit your request for a review within 30 days, this decision will be final. **If you agree with this decision, nothing more is required from you.**

Your personal health insurance provider may require a copy of this denial in order to process your request for payment from them.

Sincerely,

Annie Analyst