

**ILLINOIS WORKERS' COMPENSATION COMMISSION**  
**DECISION SIGNATURE PAGE**

Case Number	21WC022053
Case Name	Scott Morgan v. CityLink
Consolidated Cases	
Proceeding Type	
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	13
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Stephen Kelly
Respondent Attorney	Timothy Cassidy

DATE FILED: 3/1/2023

*/s/ Bradley Gillespie, Arbitrator*

Signature

**THE INTEREST RATE FOR THE WEEK OF FEBRURAY 28, 2023 4.94%**

STATE OF ILLINOIS )  
)SS.  
COUNTY OF Peoria )

<input type="checkbox"/>	Injured Workers' Benefit Fund (§4(d))
<input type="checkbox"/>	Rate Adjustment Fund (§8(g))
<input type="checkbox"/>	Second Injury Fund (§8(e)18)
<input checked="" type="checkbox"/>	None of the above

**ILLINOIS WORKERS' COMPENSATION COMMISSION  
ARBITRATION DECISION**

**Scott Morgan**  
Employee/Petitioner

Case # **21** WC **22053**

v.

Consolidated cases: \_\_\_\_\_

**CityLink**  
Employer/Respondent

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Bradley Gillespie**, Arbitrator of the Commission, in the city of **Peoria**, on **July 22, 2022**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

**DISPUTED ISSUES**

- A.  Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
- B.  Was there an employee-employer relationship?
- C.  Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
- D.  What was the date of the accident?
- E.  Was timely notice of the accident given to Respondent?
- F.  Is Petitioner's current condition of ill-being causally related to the injury?
- G.  What were Petitioner's earnings?
- H.  What was Petitioner's age at the time of the accident?
- I.  What was Petitioner's marital status at the time of the accident?
- J.  Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
- K.  What temporary benefits are in dispute?  
 TPD       Maintenance       TTD
- L.  What is the nature and extent of the injury?
- M.  Should penalties or fees be imposed upon Respondent?
- N.  Is Respondent due any credit?
- O.  Other **Reimbursement of IME expenses**

## FINDINGS

On **8/2/21**, Respondent *was* operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship *did* exist between Petitioner and Respondent.

On this date, Petitioner *did* sustain an accident that arose out of and in the course of employment.

Timely notice of this accident *was* given to Respondent.

Petitioner's current condition of ill-being *is* causally related to the accident.

In the year preceding the injury, Petitioner earned **\$66,456.00**; the average weekly wage was **\$1,278.00**.

On the date of accident, Petitioner was **42** years of age, *married* with **0** dependent children.

Petitioner *has* received all reasonable and necessary medical services.

Respondent *has not* paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of **\$0** for TTD, **\$0** for TPD, **\$0** for maintenance, and **\$0** for other benefits, for a total credit of **\$0**.

## ORDER

- Petitioner sustained an accidental injury that arose out of and in the course of his employment with Respondent on August 2, 2021.
- Petitioner's condition of ill-being was causally related to the work injury of August 2, 2021.
- Respondent shall pay TTD benefits to the Petitioner from August 2, 2021 to April 21, 2022, a period of 37 4/7 weeks.
- Respondent shall pay all reasonable, necessary and causally related medical and hospital bills from the date of the injury through the time of trial at the rate set forth in the Fee Schedule or at a rate negotiated by Respondent whichever is more favorable.
- Respondent shall reimbursement Petitioner for out-of-pocket expenses from the IME with Dr. Neal as set forth in Petitioner's Exhibit 6.
- Respondent shall pay the Petitioner permanent partial disability benefits of \$766.80/week for 100 weeks, because the injuries sustained are 17.5% loss of use of the Man As A Whole.

**RULES REGARDING APPEALS** Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

**STATEMENT OF INTEREST RATE** If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

***Bradley D. Gillespie***

Signature of Arbitrator

**March 1, 2023**

**BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION**

**SCOTT MORGAN,** )  
 )  
 **Petitioner,** )  
 )  
 vs. ) **Case No.: 21WC022053**  
 )  
 **CITYLINK,** )  
 )  
 **Respondent.** )

**DECISION OF THE ARBITRATOR**

On or about August 31, 2021, Scott Morgan [hereinafter “Petitioner”] filed An Application for Adjustment of Claim alleging injuries to his right shoulder while working for CityLink [hereinafter “Respondent”] on August 2, 2021. (PX #1) This claim proceeded to hearing on July 22, 2022, in Peoria, Illinois. (Arb. Ex. 1) The following issues were in dispute at arbitration:

- Accident;
- Causal Connection;
- Medical Expenses;
- TTD;
- Nature and Extent of Injuries; and
- IME Expenses.

**FINDINGS OF FACT**

**Testimony of Scott Morgan**

Petitioner testified that he began his employment with Respondent in June of 2010 as a bus operator. (Tr. p. 11) Petitioner began his career with Respondent as a bus operator for two years and then was promoted to a full-time supervisor position. Petitioner testified that he held the title of supervisor on August 2, 2021. (Tr. p. 12) Petitioner testified that his job duties as a supervisor included making sure the buses are running on time, handling problems with passengers on the buses, maintenance, setting up detours, and troubleshooting. *Id.*

Petitioner testified that on August 2, 2021, he was called to Bus 2002 to secure a battery panel door. Petitioner pushed the door down and tried to lock the panel. However, one of the locks was broken, and Petitioner had to slam and twist the locking mechanism a few times while being bent over. (Tr. p. 13) Petitioner felt a pop in his right shoulder while securing the door panel. (Tr. p. 14)

Petitioner testified that Respondent's Exhibit 7 depicts him carrying a tool in his right hand that is used to secure locks on the panels of busses. (Tr. p. 15) Petitioner described the panel he was working on as measuring about a three and a half feet wide panel and two to three feet tall. It is a large panel that folds up behind which the batteries are enclosed. (Tr. p. 16) Petitioner testified that there are two locks on the panel, one on each side of the bottom corners. Petitioner testified that the tool he was carrying slides into the lock, twists, and turns a lever on the inside of the panel that will catch the latch. *Id.*

Petitioner testified that the bus depicted in Respondent's Exhibits 8 and 9 was not the same bus that he injured his shoulder on August 2, 2021. (Tr. p. 19) Petitioner testified that the bus depicted in the Respondent's videos is a much newer bus. *Id.* Petitioner testified that the bus shown in Respondent's Exhibits 8 and 9 is about 10 years newer, has less miles, and the locks on the newer buses are not rusted and easier to operate. (Tr. pp. 19-20) Petitioner testified that the locks on the bus panel he was attempting to close were rusty and difficult to turn. He indicated that when the latches are rusted, they become frozen in place. (Tr. p. 21)

Petitioner testified that he immediately felt a pop in his right shoulder, and 15 to 20 minutes later, "it started to hurt pretty good." (Tr. p. 22) Petitioner explained that he was the only supervisor on duty at that time, so he continued to work. (Tr. p. 23) Petitioner testified that once the next supervisor arrived, he reported it immediately and filled out an accident report. *Id.*

The Petitioner testified that prior to August 2, 2021, he did have right shoulder issues. In July 2021, he had been experiencing neck and shoulder pain. The Petitioner presented to OSF PromptCare and was given a sling and told to return to the doctor's office if the pain worsened (A.T. 25). The Petitioner testified that the pain at that visit in July 2021 was a sore feeling. The pain the Petitioner experienced on August 2, 2021, while working on the bus was a sharp and intense pain, with numbness and tingling into his fingers (A.T. 25). The Petitioner testified that he did not have any significant complaints of weakness or loss of strength, nor stiffness in his right arm/shoulder that resulted from his shoulder pain in July 2021 (A.T. 26).

Petitioner testified that on July 21, 2021, he presented to Dr. Roberts at Midwest Orthopaedic Center. (Tr. p. 28) Dr. Roberts gave the Petitioner a cortisone injection into the right shoulder *Id.* Petitioner stated that he provided a history of his pain complaints to Dr. Roberts. Dr. Roberts placed restrictions on him and released Petitioner to work on July 26, 2021 (Tr. p. 29) Petitioner returned to work full duty on July 26, 2021. *Id.*

Petitioner testified that within 24 to 48 hours after the injection the pain was basically gone. (Tr. pp. 29-30) Petitioner testified that between July 26, 2021, and August 2, 2021, he was able to fulfil his job duties (Tr. p. 30) From July 26, 2021, through August 2, 2021, Petitioner did not have any medical appointments scheduled for the right shoulder, nor did he suffer any other injuries to his right shoulder. *Id.*

Petitioner initially presented to Respondent's occupational medicine provider for a drug and alcohol screening. (Tr. pp. 30-31) However, after waiting for approximately 45 minutes, he was advised that no doctor was available, so he was advised to go somewhere else to be

evaluated. *Id.* On August 2, 2021, Petitioner presented to OSF St. Francis Medical Center emergency room. (Tr. p. 30) Petitioner provided a history of pain in his right shoulder pre-dating the August 2, 2021, incident. (Tr. p. 31) He provided a description of the injury including feeling a pop in his right shoulder. *Id.* Petitioner described numbness and tingling down to his thumb and index finger. (Tr. p. 32) Petitioner denied having experienced this prior to his work incident. *Id.* He said that he had pain with motion of his right and difficulty picking it up. *Id.*

Petitioner remained off work from August 2, 2021. Petitioner testified that after his visit to the emergency room, his pain progressively got worse and more frequent. (Tr. p. 33) Petitioner presented to Dr. Merkley at Midwest Orthopaedic Center on August 18, 2021 (Tr. p. 34) Petitioner provided a detailed history of the work accident, his prior shoulder complaints, and his current symptoms to Dr. Merkley. (Tr. pp. 34-35) Dr. Merkley recommended a nerve study and to follow up with him (Tr. p. 35) The nerve study was not authorized by the workers' compensation carrier and Midwest Orthopaedic Center would not schedule a follow up appointment without authorization. *Id.*

Petitioner testified that for approximately month after his August 18, 2021, appointment, he tried to obtain medical treatment. (Tr. p. 36) Petitioner testified that the pain, numbness, tingling, and popping never went away during this time. *Id.*

Petitioner presented to Dr. Li on September 16, 2021. (Tr. pp. 36-37) Petitioner provided a detailed history of the work accident and his prior shoulder complaints. (Tr. p. 37) Dr. Li performed a physical examination of the Petitioner and ordered an MRI. *Id.* The MRI was performed on September 22, 2021. *Id.* The MRI revealed a tear in the right shoulder rotator cuff and bicep muscle (Tr. p. 38) Petitioner indicated that no doctor had diagnosed a tear before. *Id.*

Petitioner testified that Dr. Li's treatment plan included a month of physical therapy before performing surgery in order to prevent frozen shoulder syndrome. Petitioner indicated that he underwent surgery and roughly five months of physical therapy thereafter. (Tr. p. 38)

While Petitioner treated with Dr. Li, Respondent scheduled an independent medical exam with Dr. Neal. (Tr. pp. 38-39) Petitioner incurred expenses for two meals while traveling to and from his appointment with Dr. Neal. (Tr. p. 39) Petitioner testified that Respondent had not reimbursed him for these expenses. *Id.*

Petitioner testified that Dr. Li performed his right shoulder surgery on November 10, 2021. (Tr. p.40) Physical therapy was ordered following surgery. *Id.* Dr. Li kept the Petitioner off work until March 2022, when he felt that Petitioner could go back to work light duty (Tr. pp. 40-41) Petitioner testified that he provided his light duty restrictions to his employer, but the employer could not accommodate them. (Tr. p. 41).

Petitioner testified that Dr. Li released him to work full duty on April 21, 2022 (Tr. p. 41) At the time of trial, Petitioner had returned to work for the employer and was able to perform his job duties. (Tr. p. 42)

Petitioner testified that he did not receive any compensation benefits from August 2, 2021 to April 21, 2022. (Tr. p. 42) Petitioner testified that his medical bills were not paid by the work compensation insurance carrier. *Id.*

Petitioner testified that he did not receive any income or short-term disability whatsoever while he was held off work. Petitioner testified that he filled out paperwork for IMRF and was received \$6-\$7 a month for the 37 weeks he was kept off work. (Tr. p. 43) Petitioner testified that he continued to feel soreness in his right shoulder from time to time while performing his job duties, specifically when carrying a heavy object. (Tr. p. 45)

On cross-examination, Petitioner testified that he took the photographs of the locks submitted as Petitioner's Exhibits 9 and 10 when he returned to work full duty in May 2022. (Tr. p. 46) Petitioner testified that the bus in question had not been worked on since August 2021, and he knew that because his brother is a mechanic for Respondent and had told him. *Id.*

Petitioner testified that prior to the work accident of August 2, 2021, he was fully able to perform his job duties (Tr. p. 51) Petitioner testified that he received two injections, one into each bicep, during his July 12, 2021, visit at OSF PromptCare. (Tr. p. 53) Petitioner testified that he wore the sling prescribed to him by OSF PromptCare for one week before returning to work. (Tr. p. 54) Petitioner testified that he was not allowed to wear the sling at work per company policy. (Tr. pp. 54-55) Petitioner testified that per company policy, supervisors are not allowed to work for the employer with restrictions, but maintenance and drivers are allowed to do so. (Tr. p. 55) Petitioner testified that he was not able to ride a motorcycle between August 2, 2021 and April 21, 2022 (Tr. p. 67)

On re-direct examination, Petitioner testified that he has never injured his right shoulder while riding a motorcycle. (Tr. p. 69) Prior to August 2, 2021, he felt able to ride the motorcycle. *Id.* Petitioner testified that he was unable to ride the motorcycle after August 2, 2021, because his right arm would tingle, go numb and he had general weakness in his arm. *Id.*

Petitioner testified that he provided a detailed history of the accident to all of the doctors in this case that he felt the pop in his right shoulder after pushing and twisting the lock and that the pain really started 20 minutes later after returning to his vehicle. (Tr. pp. 70-71).

On re-direct examination, Petitioner testified that his brother, who works as a mechanic for Respondent, agreed that the locks shown in Petitioner's exhibits 9 and 10 were defective (Tr. pp. 71-72) Petitioner testified that his right shoulder complaints prior to August 2, 2021, were completely different than those he experienced after the August 2, 2021, injury. (Tr. p. 74)

### **Medical Treatment**

Petitioner presented to OSF St. Francis Medical Center on August 2, 2021, with complaints of right shoulder pain. Petitioner provided a history of shoulder pain for four to six weeks and receiving a steroid injection which briefly helped. (RX #4) Petitioner provided a history of being at work, attempting to close something, feeling a pop and immediate pain in his

shoulder. *Id.* He reported pain radiating down his right arm with intermittent numbness and tingling in his thumb and index finger. *Id.*

X-rays of the right shoulder were performed at OSF St. Francis, which showed no acute abnormality, mild degenerative change of the acromioclavicular joint (RX #4 p. 14) Petitioner was diagnosed with shoulder pain. *Id.* Petitioner was provided a sling and advised to follow up with Midwest Orthopedics. *Id.*

Petitioner was evaluated by Dr. Merkley at Midwest Orthopaedic Center on August 18, 2021. (PX #2) Petitioner provided a detailed history of the work injury to Dr. Merkley and described the symptoms he was experiencing. (PX #2 p. 19) Dr. Merkley ordered x-rays of the right shoulder. *Id.* The x-rays were unremarkable. *Id.* Dr. Merkley's impression was right shoulder pain with possible rotator cuff strain and subjective numbness and tingling of the right upper extremity (PX #2, p. 20). Dr. Merkley ordered an EMG and NCV of his bilateral upper extremities to evaluate his complaints of constant numbness and tingling of the right upper extremity. He prescribed tramadol for the pain, a muscle relaxer and kept the Petitioner off work. *Id.*

Petitioner was eventually evaluated by Dr. Li of the Orthopedic & Shoulder Center after authorization was denied for any medical treatment with Midwest Orthopaedic Center. (PX #3 p. 32) Petitioner presented to Dr. Li on September 16, 2021. (PX #3 p. 31) At that time, Petitioner provided a detailed history of the work injury including the job he was performing, the tool he used, the locking mechanism on the bus panel and force necessary. (PX #3 pp. 31-32) He told Dr. Li about his previous shoulder complaints, that he had received a steroid injection which resolved his symptoms and that he had no symptoms at the time he injured his shoulder on August 2, 2021 (PX #3 p. 32) Dr. Li's medical records reveal that the Petitioner stated he injured his right shoulder at work while twisting a tool to lock a door panel.

Dr. Li's shoulder exam showed tenderness of the AC joint and greater tuberosity, 4 out of 5 supraspinatus and external rotation strength testing, positive Neer and Hawkins impingement test, positive biceps load test and O'Brien's test and positive crossarm adduction test. (PX #3 p. 35) Dr. Li performed an ultrasound in the office. Dr. Li's diagnosis was right shoulder rotator cuff or labral injury. (PX #3 p. 36) He ordered and MRI of the right shoulder. *Id.* The MRI was performed on September 22, 2021, which revealed tendinosis and partial thickness tear of the subscapularis tendon, mild to moderate supraspinatus tendinosis, mild tendinosis and trace tenosynovitis of the long head of the biceps tendon, and mild to moderate acromioclavicular degenerative joint disease (PX #3 p. 37) Dr. Li ordered a corticosteroid injection and month of physical therapy before preceding with a right shoulder arthroscopy. (PX #3 p. 43)

Dr. Li performed a right shoulder arthroscopy with rotator tear subacromial decompression, extensive debridement labral tear with anchor bicep tendinosis on November 10, 2021. (PX #3 p. 71) Petitioner's post-surgical diagnosis was right shoulder SLAP tear, partial thickness rotator cuff tear, biceps tendinitis, impingement syndrome and AC joint dysfunction. *Id.*

Petitioner underwent physical therapy following his surgery from November 12, 2021 through March 10, 2022. (PX #3) Petitioner followed up with Dr. Li on March 15, 2022. (PX #3



p. 150) At that time, Petitioner noted ongoing progress but still was experiencing weakness. *Id.* Dr. Li ordered an additional month of physical therapy for strengthening. (PX #3 p.153) Dr. Li released the Petitioner to work full duty on April 19, 2022. (PX #3 p. 186)

### **Testimony of Dr. Lawrence Li**

Dr. Li was the treating physician for Petitioner. Dr. Li first saw the Petitioner on September 16, 2021. (PX #7 p. 7) Petitioner informed Dr. Li of a work accident that occurred on August 2, 2021, when he was trying to lock a panel on a bus and sustained an injury to his right shoulder. (PX #7 pp. 7-8) Dr. Li diagnosed Petitioner with a rotator cuff and labral injury as a result of the described work injury. (PX #7, p. 10) Dr. Li recommended an MRI of the Petitioner's right shoulder. (PX #7 p. 11) On September 22, 2021, an MRI was performed on Petitioner's right shoulder that showed a partial thickness rotator cuff tear and also some tendinitis in the biceps tendon, and an area that was suspicious for a labral tear and moderate AC joint arthritis. (PX #7 p. 11)

Dr. Li opined that the described work injury of August 2, 2021, caused the findings that he observed on the MRI. (PX #7 pp. 12-13) Dr. Li testified that the Petitioner was taken off work immediately (PX #7 p. 14) On September 28, 2021, Dr. Li performed a steroid injection in Petitioner's right shoulder. Dr. Li next saw Petitioner on October 5, 2021. Dr. Li confirmed Petitioner remained off work as of that date *Id.*

As of October 20, 2021, Dr. Li was of the opinion that all conservative measures had been exhausted and a surgical recommendation was provided at that time. (PX #7 p. 15) On November 10, 2021, Dr. Li performed a right shoulder arthroscopy with right rotator cuff repair and arthroscopic subacromial decompression, which is removing some bone spurs, excision of the distal clavicle which included removing some bone spurs from the AC joint, debriding tenosynovitis, debriding the labral tears and the bursitis. Dr. Li then performed a subpectoral bicep tendinosis, which was for the labral tear (PX #7 p. 16)

Dr. Li opined that the surgery and post-surgical care were causally related to the work injury described by Petitioner. (PX #7 p. 18) On November 17, 2021, Dr. Li saw Petitioner for post-surgical care. Petitioner remained off work for follow up care and treatment through November 17, 2021. (PX #7 pp. 17-18) On December 14, 2021, Petitioner followed up with Dr. Li. (PX #7 p. 18) Petitioner remained off work and physical therapy was continued. (PX #7 pp. 18-19) On January 11, 2022, Dr. Li kept Petitioner off work and continued his post-operative care. (PX #7 pp. 19-20)

Dr. Li testified that he reviewed the video provided by Respondent on the date of the accident and that the video did not change his opinion on causation. (PX #7 p. 21) Dr. Li confirmed that the mechanism of injury described by Petitioner supported his causation opinion in this case. (PX #7 pp. 21-22) Dr. Li was provided a hypothetical that included the described mechanism of injury and a detailed history regarding the Petitioner's pre-existing right shoulder complaints. Dr. Li confirmed that his opinion remained that Petitioner's condition of ill-being that he treated was causally related to the work injury. (PX #7 pp. 21-26)

### **Dr. Neal Testimony**

Dr. Neal performed an independent medical examination at the behest of Respondent. (RX #6 p. 9). Dr. Neal opined that Petitioner's condition of ill-being was not causally related to the work injury of August 2, 2021. (RX #6 p. 18) Dr. Neal indicated that the Petitioner informed him of his right shoulder complaints pre-dating the August 2, 2021, work incident. Dr. Neal testified that the symptoms Petitioner experienced on August 2, 2021, were just manifested symptoms from a pre-existing condition (RX #6 p. 20)

Dr. Neal confirmed that Petitioner's described work injury was consistent with what was contained in the medical records. (RX #6 p. 28) Dr. Neal admitted that the video provided to him by Respondent did not show what Petitioner was doing for approximately 7 seconds of the video. (RX #6 p. 30) Dr. Neal confirmed that this timeframe was when the accident allegedly occurred. (RX #6 pp. 30-31) Dr. Neal confirmed that Petitioner was holding a tool in his right hand on the video. (RX #6, p. 30)

Dr. Neal testified that the symptoms of the Petitioner's labral tear did not exist prior to August 2, 2021. Dr. Neal further testified that the accident described could have made the Petitioner's condition more symptomatic. (RX #6 p. 35)

Dr. Neal confirmed that he had no evidence of any other accident nor any evidence that Petitioner's complaints pre-dated August 2, 2021. Dr. Neal testified that all of opinions were based upon the assumption that Petitioner had complaints leading up to August 2, 2021 (RX #6, pp. 35-38)

### **CONCLUSIONS OF LAW**

#### **ISSUES (C): Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?**

The Arbitrator incorporates by reference the Findings of Fact set forth in the paragraphs above. Petitioner testified that on August 2, 2021, he was called to Bus 2002 to secure a battery panel door. Petitioner pushed the door down and tried to lock the panel. However, one of the locks was broken, and the Petitioner had to slam and twist the door a few times while being bent over. (Tr. p. 13) Petitioner said he felt a pop in his right shoulder while securing the panel door (Tr. p. 14)

Petitioner testified that Respondent's Exhibit 7 depicts him carrying a tool in his right hand that is used to secure locks on the panels of busses. (Tr. p. 15) Petitioner described the panel he was working on as measuring about a three and a half feet wide panel and two to three feet tall. It is a large panel that folds up behind which the batteries are enclosed. (Tr. p. 16) Petitioner testified that there are two locks on the panel, one on each side of the bottom corners. Petitioner testified that the tool he was carrying slides into the lock, twists, and turns a lever on the inside of the panel that will catch the latch. *Id.* Petitioner testified competently and credibly about the circumstances of the injury and the fact that he had previously experienced shoulder symptoms.

The Arbitrator has reviewed Respondents Exhibit #7. This Exhibit supports Petitioner's as it relates to the mechanism of injury. In this video, the Arbitrator notes that one can hear Petitioner slamming the battery door three times. Moreover, Petitioner reported the accident on August 2, 2021 and sought medical treatment later that day.

*Wherefore*, the Arbitrator finds and concludes that Petitioner sustained an accident that arose out of and in the course of his employment with Respondent on August 2, 2021.

**Issue (F): Is Petitioner's current condition of ill-being causally related to the injury?**

The Arbitrator incorporates the Findings of Fact and Conclusions of Law as set forth in the foregoing paragraphs. The Arbitrator finds and concludes that Petitioner has established that his condition of ill-being is causally related to the work accident of August 2, 2021. The Arbitrator evaluated the expert opinions put forth by the parties. The Arbitrator finds and concludes that Petitioner's treating physician, Dr. Li's opinions were more persuasive than those of Respondent's Independent Medical Examiner, Dr. Neal. Dr. Li found a causal relationship between the work accident and Petitioner's condition of ill-being.

The Arbitrator finds it significant that the Petitioner's complaints prior to August 2, 2021, were not consistent with the diagnosis of a labral tear or rotator cuff tear. This fact supports Dr. Li's testimony. Petitioner's symptoms following his August 2, 2021, work accident were consistent with the diagnosed tears and the surgery performed by Dr. Li.

*Wherefore*, the Arbitrator finds and concludes that Petitioner's condition of ill-being is causally related to the work accident of August 2, 2021.

**ISSUE (J): Has Respondent paid all appropriate charges for reasonable and necessary medical services?**

The Arbitrator incorporates the Findings of Fact and Conclusions of law set forth above by reference. As set forth above, Petitioner established that he sustained accidental injuries arising out of and in the course of his employment. He also proved that his condition of ill-being is causally related to his August 2, 2021, work accident. Dr. Li opined that the surgery he performed on Petitioner and his post-surgical care were causally related to the work injury described by Petitioner. (PX #7 p. 18)

*Wherefore*, The Arbitrator finds and concludes that Respondent is liable for the reasonable, necessary and causally related medical charges. The Arbitrator orders Respondent to pay the reasonable, necessary and causally related medical and hospital bills from the date of the injury through the time of trial as outlined in Petitioner's Exhibit 8 according to the fee schedule or at a rate negotiated by Respondent.

**ISSUE (K): What temporary benefits is Petitioner entitled to?**

The Arbitrator incorporates the Findings of Fact and Conclusions of law as set forth in the paragraphs above. The Arbitrator finds and concludes that Petitioner was off work due to his work injury from August 2, 2021, through April 21, 2022. Respondent did not pay any temporary total disability benefits during this timeframe.

*Wherefore*, the Arbitrator finds and concludes that Petitioner is entitled to TTD benefits from August 2, 2021 to April 21, 2022, a period of 37 4/7 weeks.

**ISSUE (O): Other issues including IME Expenses Claimed by Petitioner.**

The Arbitrator notes that Petitioner testified that he incurred expenses for meals while attending the Section 12 independent medical examination.

*Wherefore*, the Arbitrator finds and concludes that Respondent is responsible for reimbursing Petitioner for the expenses contained in Petitioner's Exhibit 6.

**ISSUE (L): What is the Nature and Extent of the Injury?**

With regard to the issue of nature and extent, the Arbitrator notes that pursuant to Section 8.1b of the Act, for accidental injuries occurring after September 1, 2011, permanent partial disability shall be established using five enumerated criteria, *with no single factor being the sole determinant of disability*. Per 820 ILCS 305/8.1b(b), the criteria to be considered are as follows: (i) the reported level of impairment pursuant to subsection (a) [AMA "Guides to the Evaluation of Permanent Impairment"]; (ii) the occupation of the injured employee; (iii) the age of the employee at the time of the injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. Applying this standard to this claim, the Arbitrator makes the following findings listed below.

**With regard to Sec. 8.1(b) (i)**; the Arbitrator notes that there was no impairment rating performed on the Petitioner in this case. This factor will not be given any weight.

**With regard to Sec. 8.1(b) (ii)**; the Arbitrator notes that the Petitioner was employed by the Respondent as a supervisor at CityLink. This factor is given some weight.

**With regard to Sec. 8.1(b) (iii)**; the Arbitrator notes that Petitioner was 42 years old at the time of the injury. This factor is weighed significantly in favor of Petitioner by the Arbitrator in this 8.1(b) (iii) analysis.

**With regard to Sec. 8.1(b) (iv)**; the Petitioner's future earning capacity, the Arbitrator notes that there was no evidence of loss of future earning capacity, thus this factor will be given no weight.

**With regard to Sec 8.1(b) (v)**; Petitioner underwent a right shoulder arthroscopy with rotator tear subacromial decompression, extensive debridement labral tear with anchor bicep tendinosis. Petitioner's post-surgical diagnosis was right shoulder SLAP tear, partial thickness rotator cuff

tear, biceps tendonitis, impingement syndrome and AC joint dysfunction. Petitioner testified that he still experiences soreness in his right arm while performing his job duties, especially when carrying a heavy object. This is consistent with Petitioner's last office visit with Dr. Li on May 27, 2022, wherein it was noted that Petitioner had returned to work full duty and tolerating it but continued to have pain at the end of the day.

*Wherefore*, the Arbitrator finds that Petitioner sustained a 17.5% loss of use of the Man As A Whole.