

APPEAL NO. 042076  
FILED OCTOBER 5, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 9, 2004. The hearing officer determined that the \_\_\_\_\_, compensable injury of the appellant (claimant) includes the diagnosed conditions of multiple tendonopathies of the left wrist and forearm including the wrist flexors and the finger flexors. The hearing officer determined that the injury does not extend to include "the diagnosed conditions of left elbow epicondylitis, arthropathies of the bilateral TMC joints, neuropathies of the bilateral interosseous nerves, right wrist carpal tunnel syndrome, the right shoulder, and/or the cervical spine." Claimant appealed the adverse determinations regarding extent of injury on sufficiency grounds. The file does not contain a response from respondent (self-insured).

DECISION

We affirm in part and reverse and remand in part.

Claimant contends that the hearing officer erred in making the adverse determination regarding extent of injury. We have reviewed the complained-of determination that the compensable injury does not extend to the diagnosed conditions of left elbow epicondylitis, arthropathies of the bilateral TMC joints, neuropathies of the interosseous nerves of the right upper extremity, right wrist carpal tunnel syndrome, the right shoulder, and/or the cervical spine and conclude that the issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination in this regard is supported by the record and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer determined that the compensable injury does not extend to neuropathies of the interosseous nerves of the left upper extremity. In the decision and order, the hearing officer said that Dr. L "does not appear to draw a causal connection between the injury to the left wrist and the interosseous neuropathies other than the fact that they exist and are often missed or misdiagnosed as tennis elbow." However, under the "diagnosis" portion of his November 20, 2003, report, Dr. L wrote, "Neuropathies A. Bilateral, posterior interosseus nerve irritations, left secondary to #1; right secondary to increased use." The "#1" or first diagnosis referred to by Dr. L is "history of wrist hyperextension injury followed by a secondary crush injury of the left wrist and hand with subsequent scaphoid waist fracture, non-displaced, healed." As found by the hearing officer, the compensable injury included a left wrist hyperextension injury and a hairline partial fracture of the scaphoid bone of the left wrist. Dr. L did not state that all of the listed diagnoses were secondary to the hyperextension and fracture, but he did relate the posterior interosseous nerve irritation of the left upper extremity to the

compensable injury. Therefore, we must remand this case to the hearing officer for reconsideration of whether the compensable injury extends to and includes the posterior interosseous nerve irritation of the left upper extremity. In remanding, we note that the hearing officer judges the credibility of the evidence and we in no way intend to comment on the credibility of the evidence. We merely remand so the hearing officer may consider the evidence that Dr. L did draw a causal connection between the left interosseous neuropathies and the compensable injury.

On appeal, claimant also complained about the impairment rating (IR) examination of Dr. H and contends that he did not properly examine her. Claimant's IR is not an issue before us. The hearing officer considered Dr. H's report and decided what weight to accord to it in making his factual determinations. Claimant has not shown reversible error in this regard.

We affirm that part of the hearing officer's decision and order that determined that the compensable injury does not extend to the diagnosed conditions of left elbow epicondylitis, arthropathies of the bilateral TMC joints, neuropathies of the interosseous nerves of the right upper extremity, right wrist carpal tunnel syndrome, the right shoulder, and/or the cervical spine. We reverse that part of the hearing officer's decision and order that determined that the compensable injury does not include neuropathies of the interosseous nerves of the left upper extremity, and we remand for reconsideration of that issue.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR  
STATE OFFICE OF RISK MANAGEMENT  
300 W. 15TH STREET  
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR  
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For service by mail the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR  
STATE OFFICE OF RISK MANAGEMENT  
P.O. BOX 13777  
AUSTIN, TEXAS 78711-3777.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Margaret L. Turner  
Appeals Judge