

APPEAL NO. 090726  
FILED JULY 24, 2009

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 April 30, 2009. With regard to the only issue before him the hearing officer determined that the compensable injury of \_\_\_\_\_, does not extend to right carpal tunnel syndrome, right trigger finger, and right lateral epicondylitis.

The appellant/cross-respondent (claimant) appeals the extent-of-injury issue citing doctors' reports that support his position and noting an inconsistent finding of fact. The respondent/cross-appellant (carrier) appeals, contending that the hearing officer's Finding of Fact No. 8 is in error and inconsistent with the hearing officer's ultimate determination. The carrier responds to the claimant's appeal, urging that we reverse Finding of Fact No. 8 or remand the case.

DECISION

Reversed and remanded.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_. The claimant testified how he was operating an air buffer which got out of control hitting his right hand. The claimant went to a hospital emergency room where he was diagnosed with a hand contusion and finger sprain. The claimant was treated at a clinic and eventually was referred to (Dr. K), who in a report dated October 5, 2007, assessed the conditions at issue in this hearing.

(Dr. P) was appointed as the designated doctor to determine the extent of the claimant's compensable injury and specifically to address the three conditions at issue.<sup>1</sup> In a report dated June 9, 2008, Dr. P noted diagnostic studies were normal and gave an opinion that the \_\_\_\_\_, injury extends to include the three claimed conditions. In a letter of clarification (LOC) from a Texas Department of Insurance, Division of Workers' Compensation (Division) claims service officer, Dr. P was asked about her prior MMI/IR certification. Dr. P replied by letter dated November 20, 2008, stating she had no changes to make in the claimant's "diagnosis of a sprain/strain or the [IR] assigned (0%)." The hearing officer, in a LOC, dated November 24, 2008, summarized the medical records and specifically asked "does that change your opinion that the compensable injury extends to right carpal tunnel syndrome, right trigger finger, and right lateral epicondylitis?" Dr. P replied by letter dated January 6, 2009, stating "[t]he mechanism of injury supports a sprain/strain only."

The hearing officer made findings that: Dr. P was appointed as the designated doctor; Dr. P determined that the compensable injury was only a sprain/strain and the

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<sup>1</sup> Dr. P had previously been appointed to address maximum medical improvement (MMI) and impairment rating (IR).

“preponderance of the evidence is not contrary to [Dr. P’s] determination.” The hearing officer’s Finding of Fact No. 8 states:

8. Right carpal tunnel syndrome, right trigger finger, and right lateral epicondylitis arise out of or naturally flow from the compensable injury.

The hearing officer then concludes that:

3. The compensable injury of \_\_\_\_\_ does not extend to right carpal tunnel syndrome, right trigger finger, and right lateral epicondylitis.

### **DECISION**

The compensable injury of \_\_\_\_\_ does not extend to right carpal tunnel syndrome, right trigger finger, and right lateral epicondylitis.

### **ORDER**

Carrier is not liable for the benefits at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with [Section] 408.021.

The hearing officer’s Finding of Fact No. 8 is inconsistent with the remainder of his decision.

We reverse the hearing officer’s decision as being internally inconsistent with Finding of Fact No. 8, and remand the case for the hearing officer to make a decision which is not inconsistent and which is supported by the evidence. No new evidentiary hearing on remand is necessary.

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 Division, 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 Appeals Panel Decision 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **ACE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300  
IRVING, TEXAS 75063.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Margaret L. Turner  
Appeals Judge