

APPEAL NO. 110706
FILED JULY 14, 2011

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 28, 2011, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issue by deciding that the compensable injury of _____, does not extend to right basilar arthritis, right DeQuervain tenosynovitis, and index metacarpal phalangeal, and thumb metacarpal joint sprain. The appellant (claimant) appealed, disputing the hearing officer's determination of the extent of the compensable injury. The respondent (self-insured) responded, urging affirmance.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that the claimant sustained a compensable injury on _____. The claimant testified that her right hand was injured when her supervisor was attempting to take papers that the claimant was holding in her right hand.

That portion of the hearing officer's extent-of-injury determination that the compensable injury of _____, does not extend to right basilar arthritis, right DeQuervain tenosynovitis, and index metacarpal phalangeal joint sprain is supported by sufficient evidence and is affirmed.

A designated doctor was appointed to determine the extent of the claimant's injury. He examined the claimant for this purpose on October 13, 2009. The designated doctor noted that the claimant explained to him that she was injured when a supervisor went to grab papers she was holding in her hand and slapped the claimant across the dorsum of the hand over the thumb metacarpal and the first web space and maybe the index metacarpal and caused scratches on the ulnar side of her index finger. The designated doctor opined that the compensable injury included a contusion to the dorsum of the right hand and sprain/strain of the metacarpal phalangeal joint of the right thumb. In evidence are Notice[s] of Disputed Issue(s) and Refusal to Pay Benefits (PLN-11) dated October 21, 2009, and February 2, 2010, in which the self-insured accepted a contusion to the dorsum of the right hand and sprain/strain of the metacarpal phalangeal joint of the right thumb as per the designated doctor's report.

Section 408.0041(a) provides in part that at the request of an insurance carrier or an employee, or on the commissioner's own order, the commissioner may order a medical examination to resolve any question about: (3) the extent of the employee's compensable injury. Section 408.0041(e) provides in part that the report of the designated doctor has presumptive weight unless the preponderance of the evidence is

to the contrary. 28 TEX. ADMIN. CODE § 126.7(c) (Rule 126.7(c))¹ provides in part that a designated doctor examination shall be used to resolve questions about the following: (3) the extent of the injured employee's compensable injury.

The hearing officer noted in the Background Information portion of his decision and order that he found the medical evidence from the designated doctor persuasive. The claimant's treating doctor testified that the conditions in dispute, which included the thumb metacarpal joint sprain, was causally related to the compensable injury.

In reviewing a "great weight" challenge, we must examine the entire record to determine if: (1) there is only "slight" evidence to support the finding; (2) the finding is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust; or (3) the great weight and preponderance of the evidence supports its nonexistence. See Cain v. Bain, 709 S.W.2d 15 (Tex. 1986).

The designated doctor, the claimant's treating doctor, and the self-insured's required medical examination doctor all opined that the claimant's compensable injury included sprain/strain of the metacarpal joint of the right thumb. The hearing officer's determination that the compensable injury of _____, did not extend to thumb metacarpal joint sprain is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Accordingly, we reverse the hearing officer's determination that the compensable injury of _____, does not extend to thumb metacarpal joint sprain and render a new decision that the compensable injury of _____, does extend to thumb metacarpal joint sprain.

SUMMARY

We affirm that portion of the hearing officer's determination that the compensable injury of _____, does not extend to right basilar arthritis, right DeQuervain tenosynovitis, and index metacarpal phalangeal joint sprain.

We reverse that portion of the hearing officer's determination that the compensable injury of _____, does not extend to thumb metacarpal joint sprain and render a new decision that the compensable injury of _____, does extend to thumb metacarpal joint sprain.

¹ We note that this provision is now found in Rule 127.1 of the new designated doctor rule effective February 1, 2011.

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

**CL
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Thomas A. Knapp
Appeals Judge