

APPEAL NO. 161158
FILED JULY 27, 2016

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 May 17, 2016, in El Paso, Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the compensable injury sustained on (date of injury), does extend to a full thickness tear of the supraspinatus tendon and a partial thickness tear of the infraspinatus and subscapularis tendons of the left shoulder; (2) the respondent/cross-appellant (claimant) reached maximum medical improvement (MMI) on July 6, 2015; and (3) the claimant's impairment rating (IR) is zero percent.

The appellant/cross-respondent (carrier) appealed the hearing officer's determination of the extent of the compensable injury. The carrier contends that there is insufficient evidence of causation to establish that the compensable injury extends to the disputed conditions. The claimant responded to the carrier's appeal, urging affirmance of the extent-of-injury determination. The claimant cross-appealed, disputing the hearing officer's determinations of MMI and IR. The claimant contends that he has not reached MMI. The carrier responded, urging affirmance of the hearing officer's MMI and IR determinations.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that on (date of injury), the claimant sustained a compensable injury, at least in the form of a left shoulder contusion and strain of the rotator cuff. The claimant testified that he was injured when he fell while installing air conditioners.

EXTENT OF INJURY

That portion of the hearing officer's determination that the compensable injury extends to a full thickness tear of the supraspinatus tendon and a partial thickness tear of the infraspinatus and subscapularis tendons of the left shoulder is supported by sufficient evidence and is affirmed.

The extent-of-injury issue reported from the benefit review conference (BRC) included the condition of rotator cuff tear. The parties agreed when the hearing officer read the extent-of-injury issue from the BRC report that the rotator cuff tear was one of

the conditions in dispute. On the first page of her decision and order, the hearing officer determined that the compensable injury sustained on (date of injury), does extend to a rotator cuff tear. However, the hearing officer left out the condition of rotator cuff tear when listing the extent-of-injury issue in the Statement of the Case. Additionally, the hearing officer failed to make a finding of fact, conclusion of law, or decision on the condition of rotator cuff tear.

In evidence is a letter dated April 4, 2016, from (Dr. M) which states in part, “[t]he rotator cuff consists of [four] tendons, one of them being the supraspinatus.” The record reflects that the claimant had an MRI taken on September 18, 2014, which found the following: “[r]otator cuff demonstrates a full thickness tear of the supraspinatus tendon. . . .” The MRI additionally gave as an impression of partial thickness tear of the infraspinatus and subscapularis tendons of the left shoulder. Accordingly, we reverse the hearing officer’s decision as being incomplete and render a new decision that the compensable injury extends to a rotator cuff tear.

MMI AND IR

The hearing officer’s determination that the claimant reached MMI on July 6, 2015, is supported by sufficient evidence and is affirmed.

The hearing officer’s determination that the claimant’s IR is zero percent is supported by sufficient evidence and is affirmed.

SUMMARY

We affirm that portion of the hearing officer’s extent-of-injury determination that the compensable injury sustained on (date of injury), does extend to a full thickness tear of the supraspinatus tendon and a partial thickness tear of the infraspinatus and subscapularis tendons of the left shoulder.

We affirm the hearing officer’s determination that the claimant reached MMI on July 6, 2015.

We affirm the hearing officer’s determination that the claimant’s IR is zero percent.

We reverse the hearing officer’s extent-of-injury determination as being incomplete and render a new decision that the compensable injury sustained on (date of injury), extends to a rotator cuff tear.

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

MIKE HICKS
2400 LAKESIDE BOULEVARD, SUITE 200
RICHARDSON, TEXAS 75082.

Margaret L. Turner
Appeals Judge

CONCUR:

K. Eugene Kraft
Appeals Judge

Carisa Space-Beam
Appeals Judge