

APPEAL NO. 180341
FILED MARCH 12, 2018

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 11, 2018, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) the compensable injury of (date of injury), does not extend to lumbar disc derangement at L2-3, L4-5, and L5-S1, lumbar strain/post-traumatic myositis, or right lower extremity radiculopathy at the L5 level of the lumbar spine; (2) the appellant (claimant) reached maximum medical improvement (MMI) on February 15, 2016; and (3) the claimant's impairment rating (IR) is zero percent. The claimant appealed the ALJ's determinations. The respondent (carrier) responded, urging affirmance of the ALJ's determinations.

DECISION

Affirmed in part and reversed and rendered by striking in part.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), that extends to a lumbar sprain/strain. The claimant testified he was injured when he missed a step while walking down some stairs.

The ALJ is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence. *Texas Employers Insurance Association v. Campos*, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). As an appellate reviewing tribunal, the Appeals Panel will not disturb challenged factual findings of an ALJ absent legal error, unless they are 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); *In re King's Estate*, 150 Tex. 662, 244 S.W.2d 660 (1951).

EXTENT OF INJURY

That portion of the ALJ's determination that the compensable injury of (date of injury), does not extend to lumbar disc derangement at L2-3, L4-5, and L5-S1 or right lower extremity radiculopathy at the L5 level of the lumbar spine is supported by sufficient evidence and is affirmed.

The ALJ also determined that the compensable injury does not extend to lumbar strain/post-traumatic myositis. There is sufficient evidence to support that portion of the ALJ's determination that the compensable injury does not extend to post-traumatic

myositis. However, as noted above the parties stipulated at the CCH that the compensable injury extends to a lumbar sprain/strain. Given the parties' stipulation we reverse by striking that portion of the ALJ's determination that the compensable injury does not extend to a lumbar strain.

MMI/IR

The ALJ's determination that the claimant reached MMI on February 15, 2016, is supported by sufficient evidence and is affirmed.

The ALJ'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 ALJ's determination that the compensable injury of (date of injury), does not extend to lumbar disc derangement at L2-3, L4-5, and L5-S1, post-traumatic myositis, or right lower extremity radiculopathy at the L5 level of the lumbar spine.

We reverse by striking that portion of the ALJ's determination that the compensable injury of (date of injury), does not extend to a lumbar strain.

We affirm the ALJ's determination that the claimant reached MMI on February 15, 2016.

We affirm the ALJ's determination that the claimant's IR is zero percent.

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

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701.**

Carisa Space-Beam
Appeals Judge

CONCUR:

K. Eugene Kraft
Appeals Judge

Margaret L. Turner
Appeals Judge