

APPEAL NO. 181110  
FILED JULY 10, 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 April 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 subluxation of the extensor tendon of the 5th metacarpal joint of the right hand; (2) the first certification of maximum medical improvement (MMI) and assigned impairment rating (IR) from (Dr. T) on February 8, 2017, became final under Section 408.123 and 28 TEX. ADMIN. CODE § 130.12 (Rule 130.12); (3) the respondent/cross-appellant (claimant) reached MMI on January 11, 2017; (4) the claimant's IR is six percent; and (5) the claimant had disability, resulting from the compensable injury sustained on (date of injury), throughout the period from April 12, 2017, through the CCH.

The appellant/cross-respondent (self-insured) appealed, arguing that the ALJ erroneously stated the parties stipulated that the accepted compensable injury was "bilateral thumb metacarpophalangeal joint arthritis" and further mistakenly referenced the wrong condition in his discussion. The appeal file does not contain a response from the claimant to the self-insured's appeal.

The claimant cross-appealed, disputing the ALJ's determinations of the extent of injury, finality, MMI, and IR. The self-insured responded, urging       affirmance of the issues disputed by the claimant.

The ALJ's determination that the claimant had disability, resulting from the compensable injury sustained on (date of injury), from April 12, 2017, through the date of the CCH was not appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed as reformed.

The parties stipulated that on (date of injury), the claimant sustained a compensable injury. The ALJ mistakenly referenced a bilateral thumb metacarpophalangeal joint as part of the compensable injury. However, the self-insured correctly notes in its appeal that on the record the parties agreed that the compensable injury extends to bilateral thumb carpometacarpal (CMC) joint arthritis. Accordingly, we reform stipulation 1.E. as follows: The compensable injury extends to bilateral thumb CMC joint arthritis.

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**

The ALJ's determination that the compensable injury of (date of injury), does not extend to subluxation of the extensor tendon of the 5th metacarpal joint of the right hand is supported by sufficient evidence and is affirmed.

### **FINALITY**

The ALJ's determination that the first certification of MMI and assigned IR from Dr. T on February 8, 2017, became final under Section 408.123 and Rule 130.12 is supported by sufficient evidence and is affirmed.

### **MMI**

The ALJ's determination that the claimant reached MMI on January 11, 2017, is supported by sufficient evidence and is affirmed.

### **IR**

The ALJ's determination that the claimant's IR is six percent is supported by sufficient evidence and is affirmed.

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

**DEBORAH WATKINS  
1500 MARILLA, 5D SOUTH  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Carisa Space-Beam  
Appeals Judge