

APPEAL NO. 182575  
FILED JANUARY 11, 2019

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 October 15, 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), extends to a grade II sprain of the right ulnar ligament and tear of the right ulnar collateral ligament; (2) the compensable injury of (date of injury), does not extend to a right first proximal phalangeal base bone contusion, microtrabecular fracture, or avulsion of the first proximal phalanx at the right metacarpal phalangeal joint; (3) the appellant (claimant) reached maximum medical improvement (MMI) on April 4, 2017; (4) the claimant's impairment rating (IR) is one percent; and (5) the claimant had disability, resulting from the compensable injury sustained on (date of injury), throughout the periods from August 2, 2016, through September 25, 2016, and from April 4, 2017, through June 6, 2017.

The claimant appealed that portion of the ALJ's extent-of-injury determination that was not favorable to him, and the MMI and IR determinations. The respondent (carrier) responded, urging affirmance of the disputed determinations. That portion of the ALJ's determination that the compensable injury of (date of injury), extends to a grade II sprain of the right ulnar ligament and tear of the right ulnar collateral ligament has not been appealed and has become final pursuant to Section 410.169. The ALJ's determination that the claimant had disability, resulting from the compensable injury sustained on (date of injury), throughout the periods from August 2, 2016, through September 25, 2016, and from April 4, 2017, through June 6, 2017, was not appealed and it has become final pursuant to Section 410.169.

DECISION

Affirmed as reformed.

The parties stipulated that the claimant sustained a compensable injury on (date of injury). 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).

## **STIPULATION**

The ALJ's Finding of Fact No. 1.F. states that the compensable injury extends to a right thumb sprain and right hand sprain. However, a review of the record reveals that the actual stipulation of the parties was that the compensable injury extends to a right thumb sprain/strain and right hand sprain/strain. Accordingly, we reform Finding of Fact No. 1.F. to state that the compensable injury extends to a right thumb sprain/strain and right hand sprain/strain.

## **EXTENT OF INJURY**

The ALJ's determination that the compensable injury of (date of injury), does not extend to a right first proximal phalangeal base bone contusion, microtrabecular fracture, or avulsion of the first proximal phalanx at the right metacarpal phalangeal joint is supported by sufficient evidence and is affirmed.

## **MMI AND IR**

The ALJ's determination that the claimant reached MMI on April 4, 2017, is supported by sufficient evidence and is affirmed.

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

## **DISABILITY**

The Benefit Review Conference (BRC) Report was in evidence and listed the disability issue in dispute as follows: "Did the [c]laimant have disability resulting from the compensable injury, and if so, for what period(s)?" The BRC Report states that the claimant's position was that he had disability from August 2, 2016, through September 25, 2016, and from April 4, 2017, through June 6, 2017. At the CCH, the claimant reiterated that he was seeking disability for the specific periods from August 2, 2016, through September 25, 2016, and from April 4, 2017, through June 6, 2017, and those periods of disability were actually litigated at the CCH.

As previously mentioned, the ALJ's determination that the claimant had disability, resulting from the compensable injury sustained on (date of injury), throughout the periods from August 2, 2016, through September 25, 2016, and from April 4, 2017, through June 6, 2017, was not appealed and it has become final pursuant to Section 410.169. However, we reform the disability issue to conform to the issue the parties actually litigated at the CCH to state as follows: Did the claimant have disability resulting from the compensable injury sustained on (date of injury), from August 2, 2016, through September 25, 2016, and from April 4, 2017, through June 6, 2017?

## SUMMARY

We affirm that portion of the ALJ's determination that the compensable injury of (date of injury), does not extend to a right first proximal phalangeal base bone contusion, microtrabecular fracture, or avulsion of the first proximal phalanx at the right metacarpal phalangeal joint.

We affirm the ALJ's determination that the claimant reached MMI on April 4, 2017.

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

We reform Finding of Fact No. 1.F. to state that the compensable injury extends to a right thumb sprain/strain and right hand sprain/strain.

We reform the disability issue to conform to the issue the parties actually litigated at the CCH to state as follows: Did the claimant have disability resulting from the compensable injury sustained on (date of injury), from August 2, 2016, through September 25, 2016, and from April 4, 2017, through June 6, 2017?

The true corporate name of the insurance carrier is **OLD REPUBLIC 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 78701-3232.**

---

Veronica L. Ruberto  
Appeals Judge

CONCUR:

---

Carisa Space-Beam  
Appeals Judge

---

Margaret L. Turner  
Appeals Judge