

APPEAL NO. 190627
FILED MAY 20, 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 was held on February 28, 2019, 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 sustained on (date of injury), does not extend to right elbow lateral epicondylitis or left hip impingement syndrome; (2) the appellant (claimant) reached maximum medical improvement (MMI) on March 3, 2018; and (3) the claimant's impairment rating (IR) is zero percent.¹ The claimant appealed, disputing the ALJ's determinations of extent of injury, MMI, and IR. Additionally, the claimant contends that the ALJ misidentified the compensable injury in her findings of the stipulations of the parties. The respondent (carrier) responded, urging affirmance of the disputed extent of injury, MMI, and IR determinations.

DECISION

Affirmed as reformed.

The claimant testified that he was injured when he fell while at work. In his appeal, the claimant contends that the ALJ misidentified the stipulation of the parties regarding the accepted compensable injury. The ALJ's decision and order in Finding of Fact No. 1.C. states the parties stipulated that on (date of injury), the claimant sustained a compensable injury in the form of a right shoulder rotator cuff tear, right elbow strain, and a right forearm strain. However, a review of the record reflects that the parties actually stipulated that on (date of injury), the claimant sustained a compensable injury in the form of a right elbow sprain/strain, a left wrist sprain, a left hip sprain/strain, and a left knee sprain/strain. Accordingly, we reform Finding of Fact No. 1.C. to conform to the actual stipulation of the parties.

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).

¹ We note that the ALJ's determinations are misnumbered in the paragraph summary of the first page of the decision and order.

EXTENT OF INJURY

The ALJ's determination that the compensable injury sustained on (date of injury), does not extend to right elbow lateral epicondylitis and left hip impingement syndrome is supported by sufficient evidence and is affirmed.

MMI

The ALJ's determination that the claimant reached MMI on March 3, 2018, is supported by sufficient evidence and is affirmed.

IR

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

SUMMARY

We reform Finding of Fact No. 1.C. to state: On (date of injury), [the] [c]laimant sustained a compensable injury in the form of a right elbow sprain/strain, a left wrist sprain, a left hip sprain/strain, and a left knee sprain/strain.

We affirm the ALJ's determination that the compensable injury sustained on (date of injury), does not extend to right elbow lateral epicondylitis and left hip impingement syndrome.

We affirm the ALJ's determination that the claimant reached MMI on March 3, 2018.

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

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** 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.**

Margaret L. Turner
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Carisa Space-Beam
Appeals Judge