

APPEAL NO. 230369
FILED APRIL 27, 2023

This appeal arises pursuant to the Texas Workers' Compensation Act, Tex. Lab. Code Ann. § 401.001 *et seq.* (1989 Act). An expedited contested case hearing (CCH) was held on January 17, 2023, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issue by deciding that the appellant (claimant) did not have disability from June 13, 2022, through the date of the CCH. The claimant appealed, disputing the ALJ's determination. The respondent (self-insured) responded, urging affirmance of the ALJ's determination.

DECISION

Affirmed in part and reversed by striking in part.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), in the form of at least a right knee sprain; and (Dr. R) was appointed by the Texas Department of Insurance, Division of Workers' Compensation on the issues of maximum medical improvement, impairment rating, and disability-direct result. The claimant, a mechanic, was injured on (date of injury), while climbing some steps at work.

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).

DISABILITY

In evidence is an order dated December 9, 2022, approving the self-insured's request for an expedited CCH. The order informed the parties that the CCH would be held on January 17, 2023, on the following issue: did the claimant have disability from June 13, 2022, through October 6, 2022, resulting from a compensable injury sustained on (date of injury)? At the CCH on January 17, 2023, the attorney for the self-insured requested that the issue be amended to extend the disability period at issue through the date of the CCH. The claimant's attorney objected to the motion to amend the issue, and the ALJ stated on the record that the disability period at issue would remain as certified in the order. However, in the issue statement of the decision, the ALJ indicated

that the parties agreed to modify the issue and wrote that the period at issue was from June 13, 2022, through the present. He then made a finding of fact, conclusion of law, and a decision that the claimant did not have disability from June 13, 2022, through the date of the CCH.

The ALJ's disability determination exceeded the scope of the disability issue before him to decide. Accordingly, we strike that portion of the ALJ's determination that the claimant did not have disability from October 7, 2022, through the date of the CCH. That portion of the ALJ's determination that the claimant did not have disability from June 13, 2022, through October 6, 2022, is supported by sufficient evidence and is affirmed.

SUMMARY

We affirm that part of the ALJ's determination that the claimant did not have disability from June 13, 2022, through October 6, 2022.

We strike that portion of the ALJ's determination that the claimant did not have disability from October 7, 2022, through the date of the CCH as exceeding the scope of the disability issue before the ALJ.

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

(NAME)
(ADDRESS)
(CITY), (STATE) (ZIP CODE).

Cristina Beceiro
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge