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ILLINOIS WORKERS' COMPENSATION COMMISSION
DECISION SIGNATURE PAGE

Case Number	20WC004672
Case Name	WEST, MATT v. CITY OF PEORIA
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	22IWCC0194
Number of Pages of Decision	11
Decision Issued By	Kathryn Doerries, Commissioner

Petitioner Attorney	Stephen Kelly
Respondent Attorney	Ryan W. Kitzhaber

DATE FILED: 5/25/2022

/s/ Kathryn Doerries, Commissioner
Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF ROCK)
ISLAND

<input type="checkbox"/> Affirm and adopt (no changes)	<input type="checkbox"/> Injured Workers' Benefit Fund (§4(d))
<input checked="" type="checkbox"/> Affirm with changes	<input type="checkbox"/> Rate Adjustment Fund (§8(g))
<input type="checkbox"/> Reverse <input type="text" value="Choose reason"/>	<input type="checkbox"/> Second Injury Fund (§8(e)18)
<input checked="" type="checkbox"/> Strike portion of sentence under Conclusions of Law	<input type="checkbox"/> PTD/Fatal denied
<input type="checkbox"/> Modify <input type="text" value="Choose direction"/>	<input type="checkbox"/> None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

MATT WEST,
Petitioner,

vs.

NO: 20 WC 04672

CITY OF PEORIA,
Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Petitioner herein and notice given to all parties, the Commission, after considering the issues of permanent partial disability, nature & extent only, and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Commission, herein, modifies the Arbitrator's decision under Conclusions of Law, first paragraph, striking the portion of the last sentence after "sustained". The sentence should read, "However, the Arbitrator finds Petitioner's right hand is compensable under §8(e)(9) of the Act with regard to the injuries sustained."

All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$836.69 per week for a total period of 126.41 weeks, as provided in §8(e)(11) and §8(e)(9) of the Act, for the reason that the injuries sustained caused 45% loss of use of Petitioner's right foot (75.15 weeks), 12.5% loss of use of Petitioner's right hand (25.63 weeks), and 12.5% loss of use of Petitioner's left hand (25.63 weeks).

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

May 25, 2022

o- 5/10/22

KAD/jsf

/s/ Kathryn A. Doerries

Kathryn A. Doerries

/s/ Maria E. Portela

Maria E. Portela

/s/ Thomas J. Tyrrell

Thomas J. Tyrrell

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ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	20WC004672
Case Name	WEST, MATT v. CITY OF PEORIA
Consolidated Cases	No Consolidated Cases
Proceeding Type	
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	8
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Stephen Kelly
Respondent Attorney	Ryan W. Kitzhaber

DATE FILED: 11/2/2021

THE INTEREST RATE FOR THE WEEK OF NOVEMBER 2, 2021 0.06%

/s/ Bradley Gillespie, Arbitrator

Signature

SC COPY

STATE OF ILLINOIS)
)SS.
 COUNTY OF PEORIA)

<input type="checkbox"/>	Injured Workers' Benefit Fund (§4(d))
<input type="checkbox"/>	Rate Adjustment Fund (§8(g))
<input type="checkbox"/>	Second Injury Fund (§8(e)18)
<input checked="" type="checkbox"/>	None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
NATURE AND EXTENT ONLY

MATT WEST
 Employee/Petitioner

Case # 20 WC 004672

v.

CITY OF PEORIA
 Employer/Respondent

The only disputed issue is the nature and extent of the injury. An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Bradley Gillespie**, Arbitrator of the Commission, in the city of **Rock Island**, on **July 12, 2021**. By stipulation, the parties agree:

On the date of accident, **February 11, 2020**, Respondent was operating under and subject to the provisions of the Act.

On this date, the relationship of employee and employer did exist between Petitioner and Respondent.

On this date, Petitioner sustained an accident that arose out of and in the course of employment.

Timely notice of this accident was given to Respondent.

Petitioner's current condition of ill-being is causally related to the accident.

In the year preceding the injury, Petitioner earned **\$95,338.44**, and the average weekly wage was **\$1,833.43**.

At the time of injury, Petitioner was **49** years of age, **married** with **1** dependent child.

Necessary medical services and temporary compensation benefits have been provided by Respondent.

After reviewing all of the evidence presented, the Arbitrator hereby makes findings regarding the nature and extent of the injury, and attaches the findings to this document

ORDER

Respondent shall pay Petitioner the sum of **\$836.69/week** for a further period of **126.41 weeks**, totaling \$105,765.98, because the injuries alleged by Petitioner resulted in 45% loss of use of the right foot, totaling 75.15 weeks, pursuant to §8(e)(11) of the Act; 12.5% loss of use of the right hand, totaling 25.63 weeks, pursuant to §8(e)(9) of the Act; and 12.5% loss of use of the left hand, totaling 25.63 weeks, pursuant to §8(e)(9) of the Act.

Respondent shall pay all reasonable, necessary, and causally related medical and hospital bills from the date of the injury through the time of the trial.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Bradley D. Gillespie
Signature of Arbitrator

NOVEMBER 2, 2021

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BEFORE THE WORKERS' COMPENSATION COMMISSION OF THE STATE OF ILLINOIS

MATT WEST,)	
)	
Petitioner,)	
)	
v.)	Case No: 20 WC 004672
)	
CITY OF PEORIA,)	
)	
Respondent.)	
)	

FINDINGS OF FACT

On February 11, 2020, Matt West (hereinafter “Petitioner”), was a forty-nine (49) year-old patrol officer for the City of Peoria Police Department (hereinafter “Respondent”). (PX #4) Petitioner began his career with the City of Peoria Police Department on July 26, 1999. Tr. p. 20. His assignments included time as a patrol officer, traffic officer, and property crimes detective. Tr. p. 21. On the date in question, Petitioner was assigned to day shift as a patrol officer responding to calls of service and traffic accidents. *Id.* His duties required him to respond to calls involving auto accidents, robberies, and shootings. Tr. p. 22. Petitioner testified that he would have to make life and death decisions, perform unexpected lifting, run and jump in pursuit of suspects, and potentially have altercations with suspects. Tr. p. 23.

On February 11, 2020, Petitioner responded to an intrusion alarm at the Trinity Compassionate Care Marijuana Dispensary. Tr. p. 25. During a previous security assessment with the manager of the dispensary, Petitioner was informed that trouble would most likely occur when a delivery of marijuana was happening. *Id.* The alarm changed from an intrusion alarm to an employee activated holdup alarm. Tr. p. 26. Petitioner was responding Code 1 in his squad car assuming that a robbery was taking place. *Id.* Petitioner was heading south on Sterling with his lights and siren activated. *Id.* When he entered the intersection Sterling and Bainer it was clear, but another vehicle pulled out in front of him and he struck the vehicle. (Tr. p. 26) The collision caused Petitioner to lose consciousness and he was transported to a local emergency room from the scene of the accident. (PX #4). Petitioner testified that he regained consciousness in the ambulance and recalled Officer Taylor being present at the time. Tr. p. 29.

Upon arrival at the OSF Emergency Department, Petitioner’s primary complaints were back pain and right ankle pain. (PX #4) Emergency room records report that Petitioner was responding to a call when his vehicle struck another vehicle, airbags deployed, and Petitioner lost consciousness. (PX #4 p. 73) X-rays taken at that time revealed a trimalleolar fracture of the right ankle with dislocation, a tiny avulsion fracture of the dorsomedial triquetrum of the right wrist, and a mildly displaced fracture of the ulna styloid process of the left wrist. A CT scan of Petitioner’s facial bones revealed no acute maxillofacial bone fracture and an age-indeterminate, likely chronic, fracture of the left nasal bone with deviation of the nose to the left. (PX #4) On February 11, 2020, a closed reduction of the right ankle dislocation was undertaken. (PX #4 pp. 72, 96, 97)

On February 17, 2020, Dr. James Maxey performed an open repair with internal fixation to repair Petitioner’s right ankle trimalleolar fracture. (PX #4 pp. 93-96).

On February 24, 2020, Petitioner was seen by Dr. Jeffrey Garst at OSF Orthopaedics for his bilateral wrist fractures. On exam, Petitioner had good range of motion of both wrists with about 60 degrees of volar flexion and dorsiflexion of both wrists. (PX #2 p. 1) He exhibited tenderness over the dorsum and ulnar side of both wrists. *Id.* Dr. Garst interpreted the radiographic studies to show a tiny avulsion fracture at the ulnar styloid on the left wrist and a tiny avulsion injury at the triquetrum on the right wrist. *Id.* Dr. Garst believed Petitioner's bilateral wrist fractures would heal naturally with conservative care. (PX #2). Petitioner was continued off work.

Petitioner attended a post-surgical follow-up exam with Dr. Maxey on March 2, 2020. (PX #2 pp. 4-9) During this examination, Petitioner rated his ankle pain as a 2/10 and stated he was taking Tylenol Extra Strength as needed for pain control. (PX #2 p. 4) X-rays revealed a well-aligned trimalleolar fracture. (PX #2 p. 6) Petitioner was continued off work and advised to return in a month. Petitioner returned to see Dr. Maxey on March 31, 2020. (PX #2 p. 10) During this examination, Petitioner had great range of motion of his right ankle and no pain complaints. *Id.* X-rays of the ankle revealed some pre-existing osteoarthritis and healing of the trimalleolar fracture. *Id.* Dr. Maxey felt that Petitioner could remove the boot, weight bear as tolerated, drive a car and perform light duty office work only. *Id.*

Petitioner was also seen by Dr. Garst on March 31, 2020. (PX #2 p. 12) During his examination, Petitioner had full range of motion of all his fingers, could straighten his fingers out all the way, and was able to make full fists with both hands. *Id.* Dr. Garst noted that Petitioner had a little weaker grip strength but was otherwise doing well. *Id.* X-rays revealed healed fractures of both wrists. *Id.* Dr. Garst released Petitioner from his care, returned him to full duty without restrictions regarding his bilateral wrists and pronounced him at Maximal Medical Improvement with regard to his wrists. (PX #2 p. 12) Since his release on March 31, 2020, Petitioner has not returned to see Dr. Garst, or any other physician, regarding his bilateral wrist injuries. (Tr. pp. 61-62).

On April 1, 2020, Petitioner was seen by Dr. Edward Moody of OSF Occupational Health. (PX #3) During this examination, Petitioner demonstrated full dorsal and palmar flexion of both wrists with no weakness of grip and full flexion opposition of both thumbs. (PX #3 p. 1) Petitioner reported he was not having any issues with memory, confusion, dizziness, vertigo, blurring of vision or double vision, or sensory sensitivity. *Id.* At trial, Petitioner testified that he never treated for a concussion, never complained of any head related issues, and was never seen by a neurologist or psychologist due to the February 11, 2020 accident. (Tr. pp. 65-66) Dr. Moody noted generalized soft tissue swelling of the right ankle, 5° of dorsiflexion, and 15° plantar flexion. (PX #3 p. 1) Dr. Moody observed that Petitioner could perform minimal weight-bearing with the right foot and that he placed all of his weight on the right heel when transitioning from the chair to table. *Id.* Dr. Moody agreed with Dr. Maxey limiting Petitioner to sedentary work only, office environment and positional changes as needed. (PX #3 p. 2)

Petitioner had a follow-up examination with Dr. Maxey on April 30, 2020. (PX #2 p. 16) During the examination, Dr. Maxey noted that Petitioner had a slight limp but was doing well overall. *Id.* Petitioner indicated that he had intermittent aching and stinging with prolonged weight bearing. *Id.* He denied numbness and tingling and was not taking any pain medication. *Id.* X-rays of the right ankle revealed a healing well-aligned right ankle fracture. (PX #2 p. 17) Dr. Maxey continued Petitioner on light duty until May 12, 2020, at which time he returned Petitioner to full unrestricted duty. (PX #2 p. 24) At arbitration, Petitioner stated that he had not returned to see Dr. Maxey, or any other physician, regarding his right ankle, since April 30, 2020. (Tr. pp. 62-63)

Petitioner was also seen by Dr. Moody on April 30, 2020. (PX #3) During this examination, Petitioner reported no problems related to his bilateral wrist injuries and stated he was doing pretty well with regard to his right ankle. (PX #3 p. 3) Dr. Moody observed that Petitioner still had a slight limp. *Id.* Petitioner reported being able to walk without any particular limitation but had not yet attempted running. *Id.* Dr. Moody noted that

Petitioner's job description required the ability to run 0.25 miles and that Petitioner still has a way to go. *Id.* Dr. Moody scheduled a follow-up for May 7, 2020. (PX #3 p. 3).

On May 7, 2020, Petitioner had an examination via telephone with Dr. Moody. (PX #3 p. 4) Petitioner reported that he was able to resume jogging and was able to go a half mile continuously without any problem or without any significant pain flare ups. *Id.* Dr. Moody placed Petitioner at maximum medical improvement and returned Petitioner to full unrestricted duty effective May 12, 2020. *Id.*

On October 28, 2020, Petitioner was seen by Dr. Bryan Neal of Arlington Orthopedic & Hand Surgery Specialists for a Section 12 examination at the request of Respondent. (RX #2) During his examination, Petitioner reported working full time without restrictions as a police officer for the City of Peoria. *Id.* Petitioner was asked to list all anatomic areas that were injured in the February 11, 2020 accident. Petitioner listed injuries to his right ankle, right wrist, left wrist, right and left hands, head, concussion, nasal fracture, neck and back strain. (RX #2 p. 5) Petitioner advised that he underwent surgery for his right ankle fracture. *Id.* Dr. Neal reported that Petitioner did not have any surgery for his right wrist/hand and was not treated with casts or splints. *Id.* Dr. Neal noted that Petitioner did not have surgery for his left wrist fracture and was not treated with casts or splints. (RX #2 p. 6) Petitioner advised that his hand lacerations had healed. *Id.* Regarding his neck and back strains, Petitioner denied having any treatment directed to his neck or back and it was noted that any soft tissue strain had resolved. *Id.* Dr. Neal provided the following diagnoses: (1) static intermittent dorsal right hand pain without concurrent subjective wrist symptomology, with dorsal carpal region residual soft tissue swelling, status post fracture; (2) static intermittent residual left hand symptomatology, status post fracture; and (3) Residual right ankle pain, swelling, and stiffness, status post open reduction internal fixation surgery for trimalleolar fracture of the right ankle with dislocation. (RX #2 p. 11) Dr. Neal was asked to provide AMA impairment ratings for Petitioner's right ankle and bilateral wrist injuries. Regarding his right trimalleolar fracture of the right ankle, Dr. Neal calculated that Petitioner sustained a 13% lower extremity impairment, which converts to a 5% whole person impairment. (RX #2 p. 14) Regarding his right triquetrum fracture, Dr. Neal determined a 2% upper extremity impairment, which correlates to a 1% whole person impairment. (RX #2 p. 16) Regarding his left ulnar styloid fracture, Dr. Neal assessed a 2% upper extremity impairment which is equivalent to 1% whole person impairment. (RX #2 p. 17) Using the 5% whole person impairment from the right ankle, 1% whole person impairment from the right wrist and 1% whole person impairment from the left wrist, combined to yield a total of 7% whole person impairment. (RX #2 p. 18)

Petitioner testified he had worked in his full unrestricted capacity as a City of Peoria police officer from approximately May 12, 2020 through the time of arbitration on July 12, 2021. (Tr. p. 67) Petitioner further testified he had not received any treatment for his alleged injuries since May 7, 2020. *Id.* He acknowledged that he would have sought treatment if he thought it was necessary. *Id.* Petitioner admitted that he would have requested to be taken off work if he felt he couldn't perform his job duties safely, but he did not. (Tr. p. 67)

CONCLUSIONS OF LAW

The parties stipulated the sole issue in dispute is the nature and extent of Petitioner's alleged injuries. During his testimony at arbitration, Petitioner presented his right hand to be viewed by the Arbitrator. At that time, the Arbitrator noted Petitioner's right hand had some discolored, slightly raised scars approximately an inch and a half in length. (Tr. pp. 50-51). However, the Arbitrator finds Petitioner's right hand is compensable under Section 8(e)(9) of the Act with regard to the injuries sustained, and, therefore, a disfigurement award would be improper pursuant to Section 8(c) of the Act.

In support of the Arbitrator's Decision relating to (L). What is the nature and extent of the injury? the Arbitrator finds the following:

Section 8.1b of the Illinois Workers Compensation Act requires consideration of the following enumerated factors in determining an employee's permanent partial disability:

- (i) The reported level of impairment pursuant to an American Medical Association Impairment Rating;
- (ii) The occupation of the injured employee;
- (iii) The age of the employee at the time of the injury;
- (iv) The employee's future earning capacity; and
- (v) Evidence of disability corroborated by the treating medical records.

Section 8.1b further provides no single factor shall be the sole determinant of disability. Additionally, Illinois Appellate Courts have affirmed the aforementioned factors are not exclusive, meaning the Commission is free to evaluate other relevant considerations. See *Flexible Staffing Services v. Illinois Workers' Compensation Comm'n*, 2016 IL App (1st) 151300WC. In accordance with Section 8.1b, the relevance and weight of any factors used in reaching a conclusion in this matter are set forth below.

(i) With regard to subsection (i) of Section 8.1b(b), the Arbitrator notes Respondent submitted a Section 12 report authored by Dr. Bryan Neal without objection by Petitioner, which included impairment ratings pursuant to the most current edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment. Dr. Neal provided impairment ratings of a 13% lower extremity impairment for Petitioner's right ankle and a 2% upper extremity impairment for each of Petitioner's bilateral wrists. (Respondent's Exhibit #2). The Arbitrator notes this level of impairment does not necessarily equate to permanent partial disability under the Workers' Compensation Act, but instead is a factor to be considered in making such a disability evaluation. Accordingly, the Arbitrator some weight to this factor.

(ii) Second, regarding the occupation of the injured employee, the Arbitrator notes Petitioner was a police officer for the City of Peoria Police Department at the time of the February 11, 2020 accident. He returned to full duty as a police officer on May 12, 2020. At arbitration, he testified he was voluntarily retiring from his position as a City of Peoria police officer on July 27, 2021. The Arbitrator acknowledges the heavy nature of police work and gives some weight to this factor.

(iii) Third, regarding the age of the injured employee, the evidence establishes Petitioner was forty-nine (49) years old at the time of his work-injury. The Arbitrator considers Petitioner's age at the time of the accident and his relatively long average life expectancy. The Arbitrator also notes Petitioner testified he is voluntarily retiring from the City of Peoria Police Department on July 27, 2021 and presented no evidence of an intent to re-enter the workforce. Based on the foregoing, the Arbitrator places some weight on this factor.

(iv) Fourth, with regard to Petitioner's future earning capacity, the Arbitrator finds Petitioner presented no evidence of lost earning capacity. Petitioner returned to his employment and worked in his full unrestricted capacity from May 12, 2020 through the time of Arbitration on July 12, 2021. Petitioner testified he is voluntarily retiring from his position as a City of Peoria police officer on July 27, 2021. As such, the Arbitrator places no weight on this factor.

(v) Lastly, with regard to evidence of disability corroborated by the treating medical records, the Arbitrator notes the medical records in evidence establish Petitioner had initial complaints of pain in his back and right ankle while at the emergency room on February 11, 2020. The Arbitrator notes Petitioner did lose consciousness as a result of the accident; however, Petitioner testified he never treated for a concussion, never complained of any head related issues, and was never seen by a neurologist or psychologist as a result of the February 11, 2020 accident. (Tr. pp. 65-66). Additionally, no medical records were entered into evidence establishing any head related issues or treatment.

The evidence establishes Petitioner was diagnosed with a trimalleolar fracture of the right ankle with dislocation. At his last examination regarding his alleged right ankle injury, Petitioner had a slight limp but was doing well overall. Petitioner reported being able to jog a half mile continuously without any problem or significant pain. Petitioner was discharged from medical care and has not received any further treatment regarding his right ankle injury.

The evidence also establishes Petitioner sustained a tiny avulsion fracture of the dorsomedial triquetrum of the right wrist and a mildly displaced fracture of the ulna styloid process of the left wrist. At his last examination regarding his bilateral wrist injuries, Petitioner had a full range of motion of all his fingers. Petitioner could straighten his fingers out all the way and make full fists on both sides. Petitioner had full range of motion of both wrists with about 70 degrees of volar flexion and 70 degrees of dorsiflexion. Petitioner was discharged from medical care and has not received any further treatment regarding his bilateral wrist injuries.

The Arbitrator finds Petitioner's current complaints of right hip pain, right shoulder pain, left shoulder pain, and neck pain are not corroborated by the medical records. No medical records were placed into evidence establishing any injuries or treatment to Petitioner's right hip, right shoulder, left shoulder or neck. During Petitioner's examination with Dr. Neal on October 7, 2020, Petitioner listed multiple body parts he felt were injured during the February 11, 2020 accident. Petitioner never complained of any hip issues and actually reported to Dr. Neal that he has a history of arthritis in the right hip, has had right hip corticosteroid injections twice, he takes meloxicam for his right hip, and he was not having any right hip pain at that time. Petitioner also reported to Dr. Neal he believed his alleged neck strain had resolved and he denied having any treatment directed to his neck. The Arbitrator finds the medical evidence does not corroborate any causal relationship between Petitioner's current complaints of right hip pain, right shoulder pain, left shoulder pain or neck pain and the February 11, 2020 accident, as Petitioner never treated or complained of any alleged injury prior to the time of arbitration.

The Arbitrator also finds it significant Petitioner returned to full-duty as a police officer for Respondent on May 12, 2020 and testified he had been able to perform his duties and had not returned for any treatment since his return to full duty. Petitioner further acknowledged he would have sought treatment, if it was necessary. (Tr. p. 67). Petitioner further testified that if he felt he couldn't perform his job duties safely, he would have requested to be taken off work, but didn't. *Id.*

Based on the above factors, and the record taken as a whole, the Arbitrator finds Petitioner sustained permanent partial disability to the extent of 45% loss of use of the right foot, or 75.15 weeks, pursuant to §8(e)(11) of the Act; 12.5% loss of use of the right hand, or 25.63 weeks, pursuant to §8(e)(9) of the Act; and 12.5% loss of use of the left hand, or 25.63 weeks, pursuant to §8(e)(9) of the Act, for a total of 126.41 weeks of compensation.