

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	16WC035797
Case Name	Patrick Jordan v. City of Peoria
Consolidated Cases	
Proceeding Type	
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	14
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Stephen Kelly
Respondent Attorney	Kevin Day

DATE FILED: 3/21/2023

THE INTEREST RATE FOR THE WEEK OF MARCH 21, 2023 4.62%

/s/ Bradley Gillespie, Arbitrator

Signature

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

Patrick Jordan

Employee/Petitioner

v.

City of Peoria

Employer/Respondent

Case # **16** WC **35797**

Consolidated cases: _____

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 **Peoria**, on **July 27, 2022**. By stipulation, the parties agree:

On the date of accident, **10/28/16**, 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 **\$85,953.40**, and the average weekly wage was **\$1,652.95**.

At the time of injury, Petitioner was **52** years of age, *married* with **0** dependent children.

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 \$**813.87**/week for a further period of **147.625** weeks, because the injuries sustained caused **15% loss of use of the Man As A Whole for the injuries sustained to his right shoulder, 20% loss of use of the left hand, 5% loss of use of the right hand, 7.5% loss of use of the right arm, and 0% loss of use of the left arm as the Appellate Court found that any complaints to the left shoulder are not related to the work injury, provided under Section 8(d) (2) 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 trial at the rate contemplated under the Illinois Workers' Compensation Fee Schedule or at a negotiated rate.

RULES REGARDING APPEALS Unless a Petition for Review is filed within 30 days after receipt of this decision, and a review is perfected 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

MARCH 21, 2023

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

PATRICK JORDAN,)
)
 Petitioner,)
)
 v.) **Case No: 16 WC 35797**
)
 CITY OF PEORIA,)
)
 Respondent.)
)

DECISION OF THE ARBITRATOR

This matter proceeded to hearing on July 27, 2022, in Peoria, Illinois. (Arb. Ex. 1). The following issues were in dispute at arbitration:

- Wages
- Medical Bills; and
- Nature and Extent.

FINDINGS OF FACT

I. Petitioner’s Medical Treatment

Petitioner sought treatment at the OSF emergency room on October 28, 2016, complaining of pain in his left wrist. He reported he was involved in a physical altercation with a suspect during which he lost his balance, fell forward, and landed on both of his palms. Petitioner rated the severity of the pain in his left wrist as a four out of ten (4/10). He denied having pain anywhere else. (Pet. Ex. 4, p. 1945). He specifically denied pain in the right wrist. (Pet. Ex. 4, p. 1949). On examination, Petitioner had full range of motion in the left hand and wrist with no deformity, no laceration, and normal sensation. (Pet. Ex. 4, p. 1947). An X-ray was taken of the left wrist, which was negative. (Pet. Ex. 4, p. 1949-1950).

On November 2, 2016, Petitioner was seen by Nurse Practitioner Stacey Neubert at Barring Trace Family Medicine. He reported moderate pain in his left wrist. X-rays were taken which showed an abnormal amount of soft tissue swelling in the left wrist. Objective examination of the left wrist revealed soft tissue tenderness and swelling. Objective examination of the right wrist showed no swelling, tenderness, or instability, with intact ligaments and full range of motion in the hand, wrist, and fingers. (Pet. Ex. 5, p. 1998).

Petitioner was referred to OSF Orthopedics and began treating with Dr. Jason Anane-Sefah for left wrist pain. (Pet. Ex. 2, p. 18-21). He underwent an MRI of his left wrist on November 4, 2016, which showed flexor tenosynovitis and superficial soft tissue edema and/or bruising in the

ventral wrist and dorsally near the ulnar styloid process. There was suspicion for a possible tear of the TFCC. (Pet. Ex. 4, p. 1882).

Petitioner underwent a right wrist X-ray on November 4, 2016, which was negative except for some minimal degenerative changes at the first carpometacarpal. (Pet. Ex. 4, p. 1880). On November 8, 2016, he underwent a right elbow X-ray, which showed no acute fracture or dislocation of the elbow. The X-ray seemed to show a well-corticated ossific fragment along the medial margin of the elbow joint. It was noted this fragment could represent an intra-articular loose body versus sequela of prior trauma. (Pet. Ex. 4, p. 1884).

Petitioner underwent an MRI of the right elbow on November 18, 2016. The MRI showed no acute bony, ligamentous, or muscle abnormalities in the right elbow. There were no intra-articular loose bodies present. (Pet. Ex. 4, p. 1887). Petitioner also underwent an MRI of the right wrist on November 18, 2016, which showed a bone bruise of the dorsal aspect of the hamate and triquetrum. The MRI was otherwise negative. (Pet. Ex. 4, p. 1886).

On November 29, 2016, Petitioner underwent surgery for his left wrist. While there had previously been suspicion for a TFCC tear, the surgery revealed the TFCC was not torn. The surgery performed was a left wrist diagnostic arthroscopy with triquetral debridement and limited synovectomy. The postoperative diagnosis was traumatic synovitis with osteochondral injury to the left triquetrum. (Pet. Ex. 2, p. 99-101).

Petitioner followed up with Dr. Anane-Sefah on January 5, 2017. He complained of pain in the left wrist, right wrist, and right elbow. Dr. Anane-Sefah noted Petitioner was status post left wrist arthroscopy with triquetral chondroplasty, and further diagnosed him with a left wrist contusion, right elbow and forearm strain with sprain, right lateral epicondylitis, and a right wrist contusion with ECRB tenosynovitis. (Pet. Ex. 2, p. 173-174).

On February 22, 2017, Dr. Anane-Sefah recommended Petitioner begin work conditioning and returned him to light duty work. (Pet. Ex. 2, p. 271-272). On February 27, 2017, Dr. Edward Moody at OSF Occupational Health also noted Petitioner could return to light duty. He further noted Petitioner was having relatively minor problems in his right elbow at this point which were not causing significant functional impairment. (Pet. Ex. 3, p. 1385-1386).

Petitioner saw Dr. Anane-Sefah again on April 3, 2017. He reported continued aching pain in both wrists, but he said they were improving. He further reported, at this point, he was taking Norco, very sparingly, if he had done a lot of lifting in therapy. Objectively, Petitioner was found to have full range of motion in both elbows. There was no longer any swelling in his right wrist. Testing for lateral epicondylitis was very minimally positive. (Pet. Ex. 2, p. 286-287).

On May 30, 2017, Petitioner injured his right shoulder while performing overhead lifting during work hardening therapy. Petitioner was seen that day by Dr. David Braun at OSF Occupational Health. Dr. Braun suspected an acute tear of the right rotator cuff. He ordered an MRI and took Petitioner off work. (Pet. Ex. 3, p. 1371-1373).

An MRI of Petitioner's right shoulder was performed on June 2, 2017. He reported he had experienced right shoulder pain while lifting a fifty (50) pound box overhead. The MRI showed a

full thickness partial width tear of the far anterior supraspinatus tendon, superimposed on severe tendinosis, a non-displaced fracture/contusion of the humeral head, a low grade deltoid muscle strain, and mild acromioclavicular degenerative changes. (Pet. Ex. 4, p. 1889-1890).

Petitioner followed up with Dr. Anane-Sefah on June 12, 2017, and reported he had injured his right shoulder in therapy. He said he still had some pain in the right elbow and left wrist, but this was improving. Petitioner stated his left upper extremity was doing very well. In regard to the elbow and wrist injuries, Dr. Anane-Sefah discharged Petitioner from care and told him he could follow up as needed. (Pet. Ex. 2, p. 357-358).

An X-ray of Petitioner's right shoulder was performed on June 20, 2017, which was normal except for moderate acromioclavicular arthritis and some changes at the greater tuberosity. (Pet. Ex. 2, p. 375).

Petitioner saw Dr. Jeffrey Garst on June 20, 2017 with a chief complaint of right shoulder and right elbow pain. Petitioner reported his work accident in October of 2016 caused him to suffer injuries to both shoulders. (Pet. Ex. 2, p. 376). Prior to June 20, 2017, Petitioner had never made any complaints of left shoulder symptoms to any of his treating doctors in relation to his October, 2016 work accident. (Pet. Ex 2, 3, 4, & 5). Dr. Garst reviewed the right shoulder MRI and noted it showed a possible impaction fracture at the greater tuberosity region. Dr. Garst stated he could not determine the age of the impaction fracture. He also noted a small full thickness rotator cuff tear at the supraspinatus insertion. Dr. Garst recommended Petitioner undergo right shoulder surgery in the form of an acromioplasty, distal clavicle excision, and rotator repair. (Pet. Ex. 2, p. 376).

On June 27, 2017, Dr. Garst reviewed MRI films of Petitioner's right elbow and found the MRI was essentially negative. He did not see any tenosynovitis, any significant fluid, or any tear around the elbow. He recommended conservative treatment for the right elbow. (Pet. Ex. 2, p. 388).

Petitioner was seen by Dr. Moody on June 29, 2017. Dr. Moody noted Petitioner's left wrist was non-tender and had good range of motion. He further noted Petitioner did not have any positive impingement signs or evidence of rotator cuff insufficiency in the left shoulder. (Pet. Ex. 3, p. 1361).

On September 14, 2017, Petitioner underwent a right shoulder arthroscopy with acromioplasty, distal clavicle excision, and rotator cuff repair. The preoperative and postoperative diagnosis was a right shoulder complete rotator cuff tear with impingement and acromioclavicular joint arthritis. The surgeon found the articular side of the rotator cuff was intact, but there was a small tear at the supraspinatus insertion, as described on the MRI. (Pet. Ex. 2, p. 450).

Petitioner underwent physical therapy for his right shoulder and was discharged on February 12, 2018. At the time of his discharge, he was objectively noted to have good functional range of motion in the right shoulder and relatively good strength. (Pet. Ex. 3, p. 1856-1858). Petitioner then underwent work conditioning therapy. On March, 27, 2018, Petitioner's strength and motion in his upper extremities were found to be within functional limits, and he was

discharged from work hardening with a full duty work release after meeting and maintaining all of his return to work goals. (Pet. Ex. 3, p. 1867-1869).

On March 27, 2018, Dr. Garst returned Petitioner to unrestricted full duty work. Dr. Garst noted objectively, the right shoulder had one hundred and seventy (170) degrees of flexion and abduction with good strength. There was still a bit of soreness, but overall, Petitioner was doing much better. Dr. Garst said Petitioner could return as needed in regard to the right shoulder. (Pet. Ex. 2, p. 842-844). Petitioner never sought any further treatment for his right shoulder with Dr. Garst after March 27, 2018. (Pet. Ex. 2).

On March 28, 2018, Petitioner followed up with Dr. Moody. Petitioner reported he had completed work conditioning, and his right shoulder was doing well. Objectively, impingement tests were negative, and Petitioner had no subacromial tenderness. Dr. Moody opined Petitioner could perform all of his essential job functions. He returned Petitioner to unrestricted full duty work and discharged him from care. (Pet. Ex. 3, p. 1862). Petitioner did not seek any further treatment with OSF Occupational Health for his upper extremity injuries after March 28, 2018. (Pet. Ex. 3).

II. Independent Medical Examinations

On April 6, 2017, Petitioner was seen by Dr. Peter Hoepfner for an independent medical examination. (Resp. Ex. 2, p. 62). Dr. Hoepfner reviewed Petitioner's prior treatment records in conjunction with his examination. (Resp. Ex. 2, p. 62-68). Petitioner complained to Dr. Hoepfner of right dorsal wrist pain, right elbow pain, and left wrist pain. He rated his right wrist and elbow pain severity as two out of ten (2/10), and he rated his left wrist pain at four out of ten (4/10). (Resp. Ex. 2, p. 68-69). He denied bilateral shoulder complaints. (Resp. Ex. 2, p. 69). Petitioner denied having any upper extremity injuries or problems prior to his work injury. (Resp. Ex. 2, p. 69). Dr. Hoepfner noted this was interesting in light of medical records he reviewed which showed Petitioner treated for contusions affecting both of his wrists in 2010. (Resp. Ex. 2, p. 72). In 2010, Petitioner was seen at the emergency room and followed up with OSF Occupational Health after injuring his wrists in an accident very similar to the October, 2016 accident. (Pet. Ex. 3, p. 1665, 1667, 1673).

On objective examination, Petitioner was six (6) feet tall and weighed two hundred and forty-five (245) pounds. His shoulders had full range of motion without pain. He had full range of motion in his elbows, bilaterally. Examination of Petitioner's left elbow was benign without any evidence of pathology. Palpation over the flexor and extensor tendons in the distal aspect of the forearm and wrist revealed no discomfort, bilaterally. Mild tenderness was found in the TFCC, bilaterally, and in the dorsal central aspect of the left wrist, as well as the left triquetrum. (Resp. Ex. 2, p. 69-70). Dr. Hoepfner reviewed Petitioner's diagnostic imaging studies and noted there was no tearing to the TFCC in either wrist. (Resp. Ex. 2, p. 71). Dr. Hoepfner performed X-rays of Petitioner's bilateral wrists, which showed mild arthritic changes at the pisotriquetral joint. He also performed X-rays of Petitioner's bilateral elbows, of which the only positive finding was a small ossific calcification at the medial joint line of the ulnohumeral joint, which Dr. Hoepfner noted was well circumscribed and likely reflected old process. (Resp. Ex. 2, p. 71).

In stating his diagnoses of Petitioner's upper extremities, Dr. Hoepfner noted there was no TFCC injury affecting the left wrist, but there was some edema within the ulnar carpus, consistent with a bony contusion, and a chondral lesion of the triquetrum, which was debrided at the time of the left wrist arthroscopy. Dr. Hoepfner opined Petitioner suffered a right wrist contusion with no significant anatomic abnormality. He further noted Petitioner had very mild symptoms affecting the right elbow, consistent with mild lateral epicondylitis. (Resp. Ex. 2, p. 71-72).

Dr. Hoepfner opined as of April 6, 2017, Petitioner had reached maximum medical improvement in regard to his right wrist contusion and his right elbow mild lateral epicondylitis. However, he opined Petitioner had not yet reached maximum medical improvement in regard to his left wrist injury. He expected Petitioner would reach maximum medical improvement for the left wrist in August of 2017. (Resp. Ex. 2, p. 72).

On July 20, 2017, Petitioner was seen by Dr. Hoepfner for a second independent medical examination. (Resp. Ex. 2, p. 74). Petitioner's chief complaints at that time were right shoulder pain, mild right elbow discomfort, and left wrist pain. Petitioner reported he no longer had any left elbow pain. (Resp. Ex. 2, p. 84). Objectively, Petitioner had full range of motion in both elbows. There was low grade tenderness over the right lateral epicondyle. Petitioner's bilateral volar and dorsal forearm musculature and tendons revealed no edema, and palpation over the flexor and extensor tendons in the distal aspect of the forearm and wrist revealed no discomfort, bilaterally. Petitioner's bilateral wrists had full range of motion without pain. (Resp. Ex. 2, p. 85-86). Dr. Hoepfner reviewed the right shoulder X-ray and MRI films from June 2, 2017. He noted the imaging revealed a small full thickness distal supraspinatus tendon tear without muscle atrophy or fatty infiltration. He also noted mild to moderate arthrosis in the acromioclavicular joint. (Resp. Ex. 2, p. 86).

Dr. Hoepfner again opined Petitioner had suffered a contusion/sprain affecting the right wrist, with a similar contusion/sprain and an osteochondral injury of the triquetrum in the left wrist. The left wrist complaints necessitated surgery. No TFCC tear was identified at the time of surgery. The injury about the right lateral elbow was related to the acute onset of right lateral epicondylitis. Dr. Hoepfner stated, at the time of the second independent medical examination, there was no diagnosis affecting the left elbow. Petitioner had no complaints in the left elbow at that time. Dr. Hoepfner diagnosed Petitioner with a newly identified right shoulder rotator cuff tear, related to his work hardening accident. (Resp. Ex. 2, p. 87). He opined Petitioner's alleged left shoulder injury was not related to the work hardening accident. (Resp. Ex. 2, p. 87).

In regard to the right shoulder, Dr. Hoepfner opined the rotator cuff injury was plausibly related to the work conditioning injury. (Resp. Ex. 2, p. 87). However, he opined there was no clear evidence of any acute fracture. He felt the sclerosis present in the right shoulder and the radiographic findings were consistent with an old injury. Further, the mechanism of lifting a forty-five (45) pound box is not the type of mechanism one would expect to be causative of a greater tuberosity fracture. Such a fracture requires a mechanism involving high energy impact. Dr. Hoepfner opined the finding of a possible greater tuberosity fracture in the right shoulder was a spurious finding on the imaging and was not related to the work hardening accident. Dr. Hoepfner further noted no advanced edema was seen, which one would expect with an acute fracture, and

the minor edema appreciated was consistent with the tendon tear at the supraspinatus. (Resp. Ex. 2, p. 88).

On July 20, 2017, Dr. Hoepfner opined Petitioner had reached maximum medical improvement with respect to his right elbow, right wrist, and left wrist. However, he opined Petitioner had not yet reached maximum medical improvement with respect to his right shoulder. (Resp. Ex. 2, p. 88-89). He recommended Petitioner undergo a right shoulder arthroscopy and rotator cuff repair. Dr. Hoepfner opined, with appropriate intervention and commitment to healing and returning to his work, as well as barring unforeseen complications, Petitioner would be capable of returning to unrestricted work and activities and would not have any permanent impairment with successful healing of a rotator cuff repair and uneventful recovery. (Resp. Ex. 2, p. 89).

III. Commission and Appellate Decisions Regarding the Left Shoulder

On July 16, 2019, an 8(a) arbitration was heard before the Honorable Paul Seal in regard to Petitioner's alleged left shoulder injury. The Arbitrator found Petitioner's condition of ill-being in his left shoulder was causally related to the October 28, 2016 work accident, and Respondent was responsible for the medical care and treatment recommended by Dr. Garst regarding the left shoulder. (Pet. Ex. 11, p. 2354).

Respondent appealed the decision of the Arbitrator. The Illinois Workers' Compensation Commission reversed the arbitration decision. The Commission found Petitioner failed to prove a causal connection between his left shoulder condition of ill-being and his work accident and denied Petitioner's request for prospective left shoulder treatment. (Pet. Ex. 11, p. 2343-2347).

The decision of the Illinois Workers' Compensation Commission was affirmed in the circuit court of Peoria County. Petitioner then appealed to the Third District Appellate Court. (Resp. Ex. 6, p. 1). The Appellate Court held the Commission's finding that the claimant failed to prove a causal connection between his condition of ill-being and the work accident was not against the manifest weight of the evidence. (Resp. Ex. 6, p. 1). In reaching this decision, the Appellate Court noted there was ample evidence to support the Commission's decision that there was no causal connection between the Petitioner's left shoulder condition of ill-being and the October 2016 work accident. The Court further noted the first record of any left shoulder pain did not occur until June of 2017 when Petitioner first met with Dr. Garst. (Resp. Ex. 6, p. 3).

IV. Testimony

A. Testimony of Patrick Jordan at Arbitration

Petitioner testified he was hired by the City of Peoria Police Department as a patrol officer in August of 1993. (Arb. Tr. p. 19-20). He is right-handed. (Arb. Tr. p. 50). While attempting to apprehend a suspect on October 28, 2016, Petitioner fell, landing on both of his hands. (Arb. Tr. p. 20-21). Petitioner was fifty-two (52) years old at the time of the accident. (Arb. Tr. p. 50). Petitioner testified, at that time, he felt immediate pain in his left wrist and right hand and wrist, going up to his elbows. He sought treatment at the emergency room. (Arb. Tr. p. 22). An X-ray was taken of his left wrist, which was negative. (Arb. Tr. p. 51). On November 4, 2016, Petitioner underwent an X-ray of the right wrist, which was also negative. (Arb. Tr. p. 51-52).

Petitioner testified, in November of 2016, his doctors at OSF Occupational Health referred him to an orthopedic doctor for further evaluation of his left wrist injury, and an MRI was ordered for his left wrist. (Arb. Tr. p. 24-25). Petitioner testified, by that time, he no longer had any pain in his left elbow. (Arb. Tr. p. 25).

Dr. Anane-Sefah performed surgery on Petitioner's left wrist on November 16, 2016. He then recommended Petitioner undergo physical therapy. After undergoing physical therapy, Petitioner began work hardening therapy for his left wrist. (Arb. Tr. p. 26).

Petitioner saw Dr. Peter Hoepfner for an independent medical examination on April 6, 2017. He told Dr. Hoepfner he had not suffered any previous upper extremity injuries prior to his work accident of 2016. However, Petitioner testified he would not dispute the medical records in evidence showing he received treatment for his bilateral wrists in May of 2010 when he tripped and fell, landing on his hands, while chasing a suspect. (Arb. Tr. p. 54-55).

Petitioner testified he injured his right shoulder during work hardening in May of 2017. (Arb. Tr. p. 56). He said while lifting a box weighing around ninety (90) pounds, he felt a sharp pain in his right shoulder. (Arb. Tr. p. 27). He was then referred to Dr. Garst, who determined he had a torn rotator cuff in his right shoulder. (Arb. Tr. p. 28). Dr. Garst performed surgery on Petitioner's right shoulder on or about September 14, 2017. Dr. Garst then recommended Petitioner undergo physical therapy for the right shoulder. (Arb. Tr. p. 28-29). Petitioner continued to follow up with Dr. Garst until he was released from Dr. Garst's care on or about March 27, 2018. Petitioner testified, at the time he was released from care, he still had issues with his right hand and wrist, left wrist, right elbow, and right shoulder. (Arb. Tr. p. 29-30). However, Petitioner also testified, at the time of his release to full duty work on March 27, 2018, he felt he was capable of working full duty as a police officer. (Arb. Tr. p. 57).

After his full duty release on March 28, 2018, Petitioner never sought any further treatment for his right shoulder. (Arb. Tr. p. 60). He also never sought any further treatment from any doctor for either of his hands, wrists, forearms, or elbows. (Arb. Tr. p. 60). Petitioner testified, since his full duty release, he has not reported any additional work injuries regarding either of his upper extremities. After March 28, 2018, Petitioner continued to work as a police officer until October 31, 2020 without ever needing any work restrictions in regard to his upper extremities. (Arb. Tr. p. 63).

After his release from care on or about March 27, 2018, Petitioner was able to work full duty as a police officer from March of 2018 until March of 2019, when he suffered a left knee injury which was the subject of a separate, resolved workers' compensation claim. (Arb. Tr. p. 30). Petitioner agreed he previously testified on January 22, 2020, during arbitration of his previous knee claim, that when he returned to work after his knee injury, he was able to jump fences, face confrontational situations, and perform all of his other job duties as a police officer. (Arb. Tr. p. 32).

Petitioner was working full duty when he suffered another left knee injury on or about October 7, 2020. (Arb. Tr. p. 33). Petitioner was given work restrictions for his left knee injury. (Arb. Tr. p. 34). On October 12, 2020, his doctor at OSF Occupational Health released him from

care and told him to follow up as needed. (Arb. Tr. p. 35). Petitioner returned to OSF Occupational Health on October 19, 2020, and was placed back on light duty. (Arb. Tr. p. 35-36). Petitioner retired in October of 2020 while he was still treating for his left knee injury. (Arb. Tr. p. 37). Petitioner testified he retired voluntarily. (Arb. Tr. p. 72). No doctor told him he needed to retire due to any of his work injuries. (Arb. Tr. p. 63). Petitioner was paid his full salary at all times he was off work due to his injuries. (Arb. Tr. p. 63).

Petitioner summarized his surgical history in regard to the claimed injuries, stating he underwent surgeries for his right shoulder and left wrist. He did not undergo any surgery for his right wrist or elbow. (Arb. Tr. p. 39-40). Petitioner testified he still has pain and stiffness in his left wrist. (Arb. Tr. p. 42). He testified he still has similar, but less severe, symptoms in his right wrist. (Arb. Tr. p. 43). Petitioner further testified he has stiffness, pain, a lack of mobility, and a lack of strength in his right shoulder, as well as pain in his right elbow. (Arb. Tr. p. 43-44).

Petitioner testified he is limited in his ability to bowl, play basketball, lift weights, coach football, and swim. He did not provide any specific testimony as to what body part or what symptoms limit him in these endeavors. (Arb. Tr. p. 47). He further testified being a police officer is a physically demanding job, and when he retired, he felt he was no longer physically fit to perform the job to the best of his capabilities. No doctor told Petitioner he could not perform full duty police work. (Arb. Tr. p. 48). Petitioner does not have any occupational or non-occupational restrictions from any doctor. (Arb. Tr. p. 77). As of the time of arbitration, Petitioner was fifty-eight (58) years old and remained retired. (Arb. Tr. p. 77).

B. Testimony of Dr. Peter Hoepfner

The evidence deposition of Dr. Hoepfner was taken on September 25, 2018. Dr. Hoepfner is an orthopedic surgeon specializing in hand and upper extremity surgery. He is board certified in orthopedic surgery as well as in hand and upper extremity surgery. (Resp. Ex. 2, p. 6-7).

Dr. Hoepfner testified consistently with his two independent medical examination reports. Specifically, Dr. Hoepfner testified that as of April 6, 2017, Petitioner did not need any work restrictions in regard to his right upper extremity. In regard to his left upper extremity, Dr. Hoepfner felt, at that time, Petitioner should avoid physical altercations or extreme physical exertion for an additional six weeks. He felt Petitioner did not need any further treatment at that time, except that two more weeks of work conditioning therapy would be beneficial to continue to build endurance and strength needed for more extreme physical activity. (Resp. Ex. 2, p. 19-20).

Dr. Hoepfner testified Petitioner's grip strength increased substantially between April 6, 2017 and July 20, 2017. (Resp. Ex. 2, p. 26). Dr. Hoepfner testified it was his opinion to a reasonable degree of medical certainty that Petitioner had reached maximum medical improvement for his left wrist, right wrist, left elbow, and right elbow as of July 20, 2017. (Resp. Ex. 2, p. 28). He also testified Petitioner did not suffer any right or left shoulder injury as a result of the October 28, 2016 work accident. (Resp. Ex. 2, p. 28).

Dr. Hoepfner noted the MRI taken of Petitioner's right shoulder after the work hardening accident showed a small full thickness rotator cuff tear as well as some AC joint arthritis and an age-uncertain greater tuberosity impaction fracture. He opined the only finding related to

Petitioner's work hardening accident was the rotator cuff tear. (Resp. Ex. 2, p. 30-31). Dr. Hoepfner testified an impaction fracture usually requires significant force from a direct blow to the shoulder. (Resp. Ex. 2, p. 32).

Dr. Hoepfner testified he anticipated Petitioner would be able to return to full duty work with appropriate intervention, and he would not suffer any permanent impairment with successful healing of a rotator cuff repair. (Resp. Ex. 2, p. 34).

C. Testimony of Dr. Jeffrey Garst

The evidence deposition of Dr. Garst was taken on March 21, 2018, with a supplemental deposition taken on June 12, 2019. Dr. Garst was a board-certified orthopedic surgeon, working for Great Plains Orthopedics. (Pet. Ex. 8, p. 2136). He was one of Petitioner's treating physicians. (Pet. Ex. 8, p. 2140).

Dr. Garst testified consistently with his treating medical records. Specifically, Dr. Garst testified he reviewed MRI imaging of the right shoulder which showed a small full thickness rotator cuff tear, some acromioclavicular joint arthritis, and a possible impaction fracture at the greater tuberosity. (Pet. Ex. 8, p. 2141). He also reviewed the MRI of Petitioner's right elbow which he testified was essentially negative. (Pet. Ex. 8, p. 2143-2144).

Dr. Garst testified he performed surgery on September 14, 2017, in the form of a right shoulder arthroscopy with acromioplasty, distal clavicle excision, and rotator cuff repair. His postoperative diagnosis was a right shoulder complete rotator cuff tear with impingement and acromioclavicular joint arthritis. (Pet. Ex. 8, p. 2147).

Dr. Garst opined the impaction fracture in the right shoulder at the greater tuberosity would not result from either the mechanism described regarding the October 2016 work injury, nor the work hardening incident. (Pet. Ex. 8, p. 2162-2163). He testified an impaction fracture would usually result from a fall directly on the point of the shoulder. It would normally involve a direct trauma or direct impact to the shoulder area, which would be different from the described work accident. (Pet. Ex. 8, p. 2162-2163).

Dr. Garst also provided testimony regarding Petitioner's left shoulder injury, which the Illinois Workers' Compensation Commission found was not related to Petitioner's work accident. (Pet. Ex. 8 & 9).

CONCLUSIONS OF LAW

In support of the Arbitrator's Decision relating to the nature and extent of the injury, the Arbitrator finds the following:

This claim arose after September 1, 2011. Therefore, the five factors for determining Permanent Partial Disability are applied here pursuant to 820 ILCS 305/8.1b.

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. AMA Impairment Rating;
- ii. Occupation of the injured employee;
- iii. Age of the employee at the time of the injury;
- iv. Employee's future earning capacity; and
- v. Evidence of disability corroborated by the treating medical records

Section 8.1b further states that no single factor shall be the sole determinant of disability and that the Arbitrator shall discuss the relevance and weight of any factors used in addition to the level of impairment as reported by the AMA Impairment Rating.

With regard to subsection (i) of Section 8.1b(b), the Arbitrator notes no AMA impairment rating was submitted into evidence. The arbitrator therefore gives no weight to this factor.

With regard to subsection (ii) of Section 8.1b(b), the occupation of the employee, the Arbitrator notes Petitioner was employed as a police officer at the City of Peoria Police Department at the time of the accident. Petitioner voluntarily retired on October 31, 2020. At the time of arbitration, Petitioner remained retired. Because Petitioner voluntarily retired and remains retired, the Arbitrator gives no weight to this factor.

With regard to subsection (iii) of Section 8.1b(b), the age of the employee at the time of the injury, the Arbitrator notes Petitioner was fifty-two (52) years old at the time of the accident. The Arbitrator gives less weight to this factor, as the Petitioner is retired, and likely has little to no occupational life and reasonable non-occupational life ahead of him.

With regard to subsection (iv) of Section 8.1b(b), the employee's future earning capacity, the Arbitrator notes Petitioner was released to full duty with no occupational or non-occupational restrictions. The record contains no evidence of any loss of future earning capacity. As such, the Arbitrator gives no weight to this factor.

With regard to subsection (v) of Section 8.1b(b), evidence of disability corroborated by the treating medical records, the Arbitrator notes the treating records substantiate Petitioner's subjective complaints to the extent that he suffered a contusion in the right wrist, traumatic synovitis with an osteochondral injury to the triquetrum in the left wrist, mild lateral epicondylitis in the right elbow, and a rotator cuff tear in the right shoulder. The treating records do not substantiate Petitioner's testimony regarding an alleged TFCC tear or fracture in the left wrist. The surgical report and subsequent records specifically state no TFCC tear was found in Petitioner's left wrist. The surgery performed on the left wrist was a diagnostic arthroscopy with triquetral debridement and limited synovectomy. The Arbitrator notes Petitioner's condition of ill-being in his left shoulder is not causally related to his work accident, as held by the Illinois Workers' Compensation Commission and affirmed by the Third District Appellate Court.

During an independent medical examination on April 6, 2017, Dr. Hoepfner noted Petitioner had full range of motion in both elbows, and his bilateral wrists had full range of motion

without pain. On April 3, 2017, Dr. Anane-Sefah noted Petitioner had full range of motion in both elbows. There was no longer any swelling in his right wrist, and testing for lateral epicondylitis in the right elbow was very minimally positive. In regard to his right shoulder, at the time of his discharge from physical therapy, Petitioner was objectively noted to have good functional range of motion and relatively good strength. When he was discharged from work hardening, Petitioner's strength and motion in his upper extremities were found to be within functional limits, and he was found to be able to work full duty as a police officer.

Petitioner returned to full duty on or about March 28, 2018, after which time, he never sought any further treatment for any of his upper extremity injuries. Petitioner underwent surgery for his left wrist and right shoulder, receiving only conservative treatment for all other injuries.

Because the treating medical records corroborate Petitioner's bilateral wrist, right elbow, and right shoulder injuries, subsequent treatment, recovery, and unrestricted release, the Arbitrator gives greater weight to this factor.

The Arbitrator notes that the determination of permanent partial disability benefits is not simply a calculation, but an evaluation of all of the factors as stated in the Act in which consideration is not given to any single factor as the sole determinant. Based on the above factors and the record in its entirety, the Arbitrator finds that Petitioner sustained permanent partial disability to the extent of **5% of the right wrist and 20% of the left wrist** pursuant to Section 8(e)(9) of the Act, **7.5% of the right arm** pursuant to Section 8(e)(10) of the Act, and **15% of a person as a whole** pursuant to Section 8(d)(2) of the Act. Respondent shall pay Petitioner the sum of \$775.18/week for a period of 147.625 weeks.