BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RONALD E. CLOPTON,	:	
Claimant,	:	File No. 20700048.01
vs.	:	ARBITRATION
JOHN DEERE DAVENPORT WORKS,	:	DECISION
Employer, Self-Insured, Defendant.	:	Head Note Nos.: 1402.40, 1801, 1803 2206

STATEMENT OF THE CASE

Claimant, Ronald E. Clopton ("Clopton"), has filed a petition in arbitration seeking workers' compensation benefits against defendant, John Deere Davenport Works ("John Deere"), a self-insured employer, for a stipulated work injury.

In accordance with agency scheduling procedures and pursuant to the Order of the Commissioner in the matter of the Coronavirus/COVID-19 Impact on Hearings, the hearing was held on September 8, 2020, via CourtCall. The case was considered fully submitted on October 19, 2020, upon the simultaneous filing of briefs.

The record consists of Joint Exhibits 1 through 6, Claimant's Exhibits 1 through 3, and Defendant's Exhibits A through E, as well as Exhibit G, and Exhibits I through S. Claimant testified on his own behalf. No other witnesses were called to testify.

STIPULATIONS

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

The parties agree claimant was an employee of the employer at the time of the injury. The parties further agree claimant sustained an injury to the left wrist, which arose out of and in the course of employment, on July 12, 2018.

The parties agree the work injury is a cause of temporary disability. However, defendant contends claimant has already been paid all temporary disability benefits he is owed for the July 12, 2018, left wrist injury.

If permanent partial disability benefits are awarded, the parties agree claimant's disability is a scheduled member disability to the left arm and the commencement date of permanent partial disability benefits would be September 6, 2018.

At all times material hereto, the claimant's gross earnings were $931.14 per week. The claimant was married and entitled to 2 exemptions. Based on the foregoing numbers, the parties assert a weekly benefit rate of $606.25.

ISSUES

The parties submitted the following issues for determination:

1. Whether claimant is entitled to temporary partial disability benefits from August 1, 2018, through September 5, 2018;

2. Whether claimant sustained permanent disability as a result of the July 12, 2018, work injury and, if so, the extent of claimant's entitlement to permanent disability benefits;

3. Whether claimant is entitled to alternate medical care; and

4. Assessment of costs.

FINDINGS OF FACT

The undersigned, having considered all of the evidence and testimony in the record, finds:

Ronald Clopton was born on October 9, 1962, making him 57 years old on the date of the evidentiary hearing. (See Hearing Transcript, page 13)

Claimant began working for John Deere in September 2011. (Hr. Tr., p. 14) During his tenure with John Deere, claimant worked at several different plants, including Dubuque Works, Harvester, and Davenport Works. (Hr. Tr., pp. 14-15) On the date of injury, claimant was employed as a material handler at the John Deere Davenport Works location. (Hr. Tr., p. 15) Claimant's job duties included delivering and unloading pallets of product to various workstations. (Id.) Claimant utilized a forklift when moving the pallets. (Id.) Once in a while, however, claimant would have to get off his forklift and manually move various items. (Id.)

Claimant's medical records disclose that months prior to the July 12, 2018, work injury, claimant sustained a significant, unrelated injury to his left wrist. (See Ex. 3, p. 46)

On or about March 2, 2018, Clopton sustained an injury to his left wrist at home. Clopton apparently tripped over an object in his house, fell onto his outstretched left wrist, and complained of pain and an inability to bear weight. (Ex. 3, p. 46) Douglas

Gaither, M.D. diagnosed Clopton with a displaced fracture of the distal radius and performed a closed reduction for the same on March 3, 2018. (See JE2, p. 20)

On March 9, 2018, Michael Berry, M.D. performed an open reduction and internal fixation of the unstable fracture pattern. (JE2, pp. 36-37) Diagnostic imaging collected on March 22, 2018, revealed claimant's hardware was in appropriate alignment. The imaging also revealed restoration of radial height, radial inclination, and palmar tilt. (JE2, p. 48)

Unfortunately, the range of motion in claimant's wrist continued to show limitations at his April 26, 2018, post-op appointment. (JE3, p. 49) The medical records note claimant also demonstrated diminished strength in the left wrist. (Id.) Diagnostic imaging again revealed maintenance of radial height, radial inclination, and palmar tilt, with no changes in the hardware placement. (Id.)

Clopton was released to return to work without restrictions on May 7, 2018, just under two months before the alleged work injury. (JE2, pp. 15, 27) On the advice of Dr. Berry, claimant wore a brace on his left wrist upon returning to work. (Hr. Tr., pp. 18-20) Claimant continued to experience pain in his left wrist between May 7, 2018, and July 12, 2018; however, he did not return to Dr. Berry during this period of time. (Hr. Tr., pp. 26-27; See JE3, p. 51)

The work injury in question occurred on July 12, 2018. Clopton experienced a "pop" and sudden pain in his left wrist while lifting and unloading cylinders at John Deere. (Hr. Tr., pp. 15, 21-22) He was not wearing his brace on the date of injury. (Hr. Tr., p. 19) Clopton reported the injury in a timely fashion and defendant authorized medical treatment for the same. (JE1, p. 9)

When claimant presented for an x-ray on the date of injury, he expressed his belief that something had to be wrong or broken in his wrist. (Id.) Diagnostic imaging taken on the date of injury revealed no acute fracture, an old, mildly displaced radial styloid fracture, and a healed distal left radial fracture volar plate fixation. (JE2, p. 43) Additionally, three of the ulnar sided distal left radial screws appeared to be minimally extending into the radiocarpal space and possibly abutting the proximal margin of the lunate. (Id.)

After results of the x-rays were read and visualized by claimant, claimant felt as though his own daily regimen of Aleve would take care of his discomfort. (JE1, pp. 8-9)

Claimant returned to defendant's occupational health department on July 13, 2018, reporting continued pain. (JE1, p. 8) However, claimant felt as though he could handle his regular duty position. (Id.) Claimant's examination revealed no redness, minimal swelling, equal grip strength, and no neurologic deficit. (Id.) Claimant also demonstrated good range of motion of the wrist and digits. (Id.) Kurt Sturmer, APN diagnosed claimant with a left wrist contusion. (Id.)

Claimant presented to Christine Deignan, M.D., John Deere's on-site physician, on July 16, 2018. (JE1, p. 7) Manual muscle testing of the radial, median, and ulnar motor functions were normal in both hands. (Id.) Dr. Deignan reviewed claimant's x-rays and noted some of the screws in claimant's left wrist had loosened and were extending into the joint. (Id.) Dr. Deignan assessed claimant with a left wrist sprain and hardware loosening. (Id.)

As part of the appointment with Dr. Deignan, claimant walked Dr. Deignan and John Deere's safety analyst to the area where the injury occurred. (See JE1, p. 6) Following the walkthrough, Dr. Deignan provided the following:

> Assessment: Lifting the rods is an activity that produces forceful deviation of the wrist. Because the joint between the carpal bones and the distal ulna is obstructed by loosened screw, Mr. Clopton developed pain and numbness similar to the issues he had after the surgery for his fracture.

(JE1, pp. 6-7)

Later that same day, claimant presented to Dr. Berry's office for the first time in approximately seven weeks. (JE3, p. 51) Clopton reported sustaining an aggravation of his left wrist condition at work on July 12, 2018. (Id.) More specifically, claimant reported experiencing a snapping sensation in his wrist and some numbness in his ulnar fingers. (Id.) Examination of the left wrist revealed no bony abnormality. Claimant demonstrated no pain about the distal radius or the ulna. Claimant was able to move all of his fingers without difficulty. He demonstrated full sensory and motor function of radial, ulnar, and median nerves. Claimant's range of motion in the left wrist was full and mildly painful. (Id.)

After reviewing updated x-rays of claimant's left wrist, Dr. Berry told claimant he did not see any signs of hardware failure, re-fracture, or "anything of that nature." (JE3, p. 51) That being said, Dr. Berry noted, "These x-rays raise the question of potential screw migration near the articular surface of the lunate facet. It is inconclusive on [the] x-rays available . . . ." (Id.) Dr. Berry ordered a CT scan of claimant's left wrist to evaluate the issue further. (Id.)

At his July 30, 2018, follow-up appointment, claimant demonstrated full range of motion with mild pain and 5/5 grip strength. (JE3, p. 53) After reviewing the July 25, 2018, CT scan, Dr. Berry opined that while claimant's fracture had healed, more consolidation, especially through the dorsal cortex, was necessary before complete hardware removal would be considered safe. (JE3, p. 53) He further opined that the most ulnar distal screw was indeed encroaching on the articular surface, especially dorsally. (Id.) However, Dr. Berry did not believe this screw to be claimant's pain generator. (Id.) Rather, he felt it was an "entirely incidental finding." Nevertheless, Dr. Berry recommended removal of the screw to help protect against any future articular breakdown. (Id.)

Following claimant's physical examination, Dr. Berry provided claimant with a return to work slip. (JE3, p. 55) The slip, signed on July 30, 2018, provided claimant would be able to return to work on August 6, 2018, with no restrictions. (Id.)

On August 2, 2018, Dr. Berry ended up removing two screws from claimant's wrist that were encroaching on the articular surface near the lunate facet. (JE 6, p. 65) X-rays collected following the procedure revealed no dynamic instability. Dr. Berry opined the articular congruity remained quite acceptable. (JE6, p. 66)

When asked to address causation, Dr. Deignan opined the need for the August 2, 2018, surgical procedure was not related to the July 12, 2018, work injury. ("According to the orthopedic assessment the screw protrusion is an incidental finding and the reason for surgery is preventative.") (JE1, p. 4) Following the issuance of this opinion, defendant denied liability for claimant's left wrist condition and provided no further treatment or benefits. (Ex. H; See JE3, p. 57)

Claimant presented for his final appointment with Dr. Berry on August 16, 2018. (JE3, p. 56) At the time of the examination, claimant demonstrated full sensory and motor function of the radial, ulnar, and median nerves. (Id.) X-rays taken on the same date revealed that the remaining hardware in claimant's wrist was in an appropriate position. (Id.) Claimant continued to report ongoing, albeit improving, pain. Dr. Berry assigned a five-pound lifting restriction and referred claimant to occupational therapy for strengthening and to increase his range of motion. (Id.)

Claimant presented to Dr. Deignan on September 5, 2018. (JE1, p. 2) He reported that his left wrist was not causing him pain. (Id.) On examination, claimant was pain free throughout his range of motion testing. Similar to Dr. Berry's report, Dr. Deignan noted claimant's radial, medial, and ulnar motor functions were intact. (Id.) Dr. Deignan placed claimant at maximum medical improvement ("MMI") and released claimant to return to regular duty work as of September 5, 2018. (Id.)

Pursuant to claimant's request, Dr. Berry issued a return to work note releasing claimant to return to work without restrictions on September 6, 2018. (See JE3, pp. 58-59)

Outside of an independent medical examination, claimant has not presented to any medical provider for treatment specifically related to his left wrist since September 5, 2018. (See Hr. Tr., pp. 25, 29)

Mr. Clopton testified at hearing that he continues to experience pain and weakness in his left wrist. (Hr. Tr., pp. 25, 29) However, he has not reported his pain to any medical professionals. Instead, claimant has chosen to live with the pain. (See id.) Claimant testified he takes Motrin on a daily basis and he occasionally uses Biofreeze or Lidocaine to help with the pain. (Hr. Tr., pp. 26-27)

Mr. Clopton was asked a series of questions comparing the pain he experienced between the first and second injuries, and the pain he experienced after the second injury. It appears as though this line of questioning was confusing to claimant. That being said, the undersigned understood claimant's testimony to be that his pain changed and/or increased following the July 12, 2018, work injury. (See Hr. Tr., pp. 26-30)

John Deere handed down a 30-day suspension on claimant on August 6, 2018. (Hr. Tr., pp. 40-41; Ex. G, p. 22) John Deere subsequently terminated claimant's employment contract on September 12, 2018. (Ex. I, p. 26; Ex. J, p. 28) At hearing, claimant testified that his suspension and termination had nothing to do with his left wrist injury. (Hr. Tr., pp. 42-43)

As of September 8, 2020, claimant was employed as a butcher for J & B Meats. (Hr. Tr., pp. 43-44) According to claimant, the butcher position is a full-time position that requires him to use his hands to cut meat. (Id.)

Defendant challenges claimant's credibility. Defendant's challenge largely stems from claimant's job application, wherein claimant certified that he had never been convicted of, plead guilty to, or had any pending misdemeanor, felony, or other serious criminal charges. In reality, claimant had plead guilty to three crimes that predated the August 2010 employment application. (See Hr. Tr., pp. 38-39) Two of these three crimes were crimes of dishonesty. Defendant further asserts that because claimant demonstrated dishonesty to obtain employment with John Deere, it logically follows that claimant would be willing to engage in further dishonesty in an attempt to obtain workers' compensation benefits.

While I acknowledge counsel for defendant's duty to put forth all viable arguments, this particular credibility challenge seems unnecessary. Defendant provides no examples of contradictory statements or what exactly it is that claimant is being dishonest about in the matter at hand. This is a relatively straightforward case involving a stipulated injury. The nature and extent of claimant's disability will largely be decided by a battle of the experts. Moreover, the 2017 amendments to the Iowa Workers' Compensation Act preclude the undersigned from using lay testimony or agency experience when assigning an injured worker's level of permanent disability. For what it's worth, I do not find claimant's past bad acts to be telling in this regard.

Claimant asserts that the July 12, 2018, work injury materially aggravated his pre-existing left wrist condition and accelerated his need for surgical intervention. Defendant concedes claimant sustained at least a temporary aggravation of his pre-existing left wrist condition on the date of injury. The main issue in this case is whether the July 12, 2018, work injury materially aggravated, accelerated, or lit-up claimant's pre-existing left wrist condition, necessitating the August 2, 2018, surgery.

Opinions regarding the nature and extent of claimant's condition were obtained from defendant's in-house occupational physician, claimant's treating surgeon, and claimant's IME physician. These opinions are summarized above.

Dr. Deignan served as defendant's in-house occupational physician at the time of claimant's injury. After reviewing updated x-rays, physically examining claimant, and analyzing claimant's job duties on the date of injury, Dr. Deignan opined "Lifting the rods is an activity that produces forceful deviation of the wrist. Because the joint between the carpal bones and the distal ulna is obstructed by loosened screw, Mr. Clopton developed pain and numbness similar to the issues he had after the surgery for his fracture." (JE1, pp. 6-7) Importantly, Dr. Deignan did not opine that the work injury caused the screw to loosen or shift out of place; rather, Dr. Deignan was of the opinion that the joint between the carpal bones and the distal ulna was obstructed by a loosened screw, and such an obstruction would have created pain and numbness with forceful deviation of the wrist.

Ultimately, after reviewing Dr. Berry's medical records, Dr. Deignan opined that the August 2, 2018, surgical procedure was not related to the July 12, 2018, work injury. (JE1, p. 4)

The next opinion comes from claimant's treating physician and surgeon, Dr. Berry. Following a conference call, counsel for defendant produced a pre-written opinion letter to Dr. Berry in July 2020. The letter is alleged to be a summation of their conference call. The letter asserts claimant's July 12, 2018, left wrist injury resulted in a temporary strain. The letter further asserts the opinion that the screw encroachment observed on diagnostic imaging was neither caused, aggravated, nor accelerated by the July 12, 2018, work injury. Similarly, the letter asserts that neither the August 2, 2018, screw removal procedure or any resulting time off work by claimant was necessitated by claimant's July 12, 2018, work injury. The letter also provides that the screw encroachment and the August 2, 2018, screw removal procedure would have occurred even if the July 12, 2018, temporary left wrist strain had never occurred. Lastly, the letter asserts claimant's examinations did not reveal carpal tunnel syndrome, and Dr. Berry never diagnosed claimant with left carpal tunnel syndrome. (Ex. Q, pp. 45-46)

On July 7, 2020, Dr. Berry responded to the letter and endorsed the opinions contained in the same. (Ex. Q, p. 46)

Following these two unfavorable opinions, Mr. Clopton sought an independent medical examination to be performed by orthopedic surgeon, Richard Kreiter, M.D. (Ex. 1) As part of his IME, Dr. Kreiter was asked to address whether the August 2, 2018, surgery was necessitated or causally related to the July 12, 2018, work injury. Dr. Kreiter was also asked to provide an impairment rating to the left wrist, with the understanding that the impairment rating should be limited to the impairment sustained as a result of the July 12, 2018, work injury. (See Ex. O, p. 38)

The IME occurred on June 2, 2020, and Dr. Kreiter produced his final report on June 30, 2020. (See id.) After reviewing claimant's medical records and conducting a physical examination, Dr. Kreiter diagnosed claimant with progressive arthritic changes in the radiocarpal wrist joint with carpal tunnel syndrome and retained volar locking Synthes plate. Dr. Kreiter is the only physician in the evidentiary record to diagnose claimant with carpal tunnel syndrome. According to Dr. Kreiter, claimant's carpal tunnel syndrome was caused by swelling, edema, and limited use of the left hand. (Ex. 1, p. 1) Dr. Kreiter expressed the opinion that claimant's carpal tunnel syndrome "may need evaluation and treatment" in the future. (Id.)

With respect to causation, Dr. Kreiter opined the July 12, 2018, lifting episode aggravated and accelerated a pre-existing issue that was developing within the wrist joint. In this regard, Dr. Kreiter provides that the original fracture, while unrelated, was complex and the bone at the time of reinjury was only in the very early stages of a solid union. (Ex. 1, p. 1)

Regarding permanency, Dr. Kreiter is of the opinion that claimant has not reached MMI for his left wrist condition. (Id.) As such, he declined to assess an impairment rating to the left upper extremity. (Id.) For future treatment, Dr. Kreiter recommended anti-inflammatory medications, an orthotic or brace, and a referral to a hand specialist for reevaluation and treatment. (Id.)

While he is certainly qualified as an orthopedic surgeon to provide an opinion in this case, Dr. Kreiter's opinions in this matter are overly broad and leave several key questions unanswered. Moreover, Dr. Kreiter was retained by claimant's counsel for purposes of litigation and his one-time independent medical evaluation of claimant occurred nearly two years after the date of the work injury.

Following review of the entirety of the evidentiary record, the undersigned provides the greatest weight to the opinions of Dr. Berry. I find the opinions of Dr. Berry to be the most persuasive and credible. Dr. Berry served as claimant's treating physician and surgeon throughout the pendency of both the March 2, 2018, unrelated injury, and the July 12, 2018, work injury. He examined claimant's condition on numerous occasions, including intraoperatively. I find that Dr. Berry was in an advantageous position to consider and make a determination of whether claimant's July 12, 2018, work injury materially aggravated his pre-existing condition and accelerated his need for the August 2, 2018, surgery.

Dr. Berry was not hired as a litigation expert by a specific party. He was independently selected by claimant as a treating surgeon for the initial left wrist condition. Moreover, as the surgeon that actually treated and twice operated upon claimant's wrist, Dr. Berry carries significant credentials and credibility in this situation. I place significant weight on Dr. Berry's opinions in this case.

Dr. Deignan's medical opinions, while less thorough, support the opinions of Dr. Berry. I likewise accept Dr. Deignan's opinions as persuasive.

Given I provide the greatest weight to the opinions of Dr. Berry, I find claimant failed to prove the July 12, 2018, work injury materially aggravated, accelerated, or lit-up his pre-existing left wrist condition. I similarly find claimant failed to prove the July 12, 2018, work injury accelerated his need for the August 2, 2018, surgery.

Claimant asserts a claim for temporary disability benefits. Specifically, claimant asserts a claim for temporary disability benefits from August 1, 2018, through September 5, 2018. Having found claimant failed to prove the July 12, 2018, work injury caused or accelerated his need for the August 2, 2018, work injury, I find the issue of whether claimant is entitled to temporary benefits, while recovering from said surgery, moot.

CONCLUSIONS OF LAW

The party who would suffer loss if an issue were not established ordinarily has the burden of proving that issue by a preponderance of the evidence. Iowa Rule of Appellate Procedure 6.14(6)(e).

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995); Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994).

While a claimant is not entitled to compensation for the results of a preexisting injury or disease, its mere existence at the time of a subsequent injury is not a defense. Rose v. John Deere Ottumwa Works, 247 Iowa 900, 76 N.W.2d 756 (1956). If the claimant had a preexisting condition or disability that is materially aggravated, accelerated, worsened or lighted-up so that it results in disability, claimant is entitled to recover. Nicks v. Davenport Produce Co., 254 Iowa 130, 115 N.W.2d 812 (1962); Yeager v. Firestone Tire & Rubber Co., 253 Iowa 369, 112 N.W.2d 299 (1961).

This case is unique in that it involves two injuries in close proximity; one clearly work-related, one clearly not. In this case, claimant asserts the July 12, 2018, work injury materially aggravated his pre-existing left wrist condition and accelerated his need for the August 2, 2018, surgical intervention. Additionally, claimant asserts he developed left carpal tunnel syndrome as sequela of the July 12, 2018, aggravation.

Claimant asserts the proof is in the diagnostic imaging. More specifically, claimant asserts his diagnostic imaging did not reveal any changes until after the July 12, 2018, work injury. As will be explained below, I do not find this to be a particularly compelling argument.

The "change" claimant is referring to is the screw migration noted on claimant's July 25, 2018, CT scan. However, there is little to no evidence the July 12, 2018, work injury caused the settling of the lunate facet or the screw migration. No physician has definitively opined that the July 12, 2018, work injury caused the settling of the lunate facet, or that the work injury caused the screw migration. The closest any physician came to making such a finding is claimant's expert, Dr. Kreiter. In his report, Dr. Kreiter provides, "It is my opinion the lifting episode aggravated and accelerated the pre-existing problem that was developing within the wrist joint." (Ex. 1, p. 1) Dr. Kreiter does not define the "pre-existing problem that was developing." (Id.)

On the other hand, claimant's treating surgeon, Dr. Berry, expressed the opinion that the settling of the lunate facet and the screw migration was merely an incidental finding. (JE3, p. 53) He did not believe the encroaching screw to be claimant's pain generator. (Id.) Dr. Berry would later formally endorse the opinion that the screw encroachment noted on diagnostic imaging was not caused, aggravated or accelerated by the July 12, 2018, temporary left wrist strain. (Ex. Q, p. 45)

The medical records in evidence do not support a finding that the July 12, 2018, work injury was particularly significant, or that it materially aggravated claimant's hardware. Aside from the settling and screw migration, all other aspects of claimant's x-rays remained consistent with prior imaging. All x-rays obtained between March 22, 2018, and August 2, 2018, revealed claimant's hardware was in appropriate alignment, and there was restoration of radial height, radial inclination, and palmar tilt. (JE3, pp. 48, 49, 51) After reviewing claimant's first x-ray following the July 12, 2018, work injury, Dr. Berry told claimant he did not see any signs of hardware failure, re-fracture, or "anything of that nature." (JE3, p. 51) Diagnostic imaging obtained during the August 2, 2018, surgery revealed no dynamic instability and articular congruity remained quite acceptable. (JE6, p. 66)

Moreover, aside from claimant's testimony, there is little evidence that claimant's condition significantly worsened following the July 12, 2018, work injury. Contemporaneous medical records reveal claimant's findings on physical examination remained consistent following the July 12, 2018, work injury. Examination of the left wrist revealed no bony abnormalities. He had no pain about the distal radius or the ulna, and he was able to move all of his fingers without difficulty. He demonstrated full

sensory and motor function of radial, ulnar, and median nerves. The range of motion in his wrist was full, albeit mildly painful, and claimant demonstrated 5/5 grip strength. (JE3, pp. 51, 53)

Moreover, Dr. Berry informed claimant that additional surgery, such as hardware removal, was a possibility prior to performing the March 9, 2018, open reduction and internal fixation procedure. (See JE3, p. 46) Claimant was advised of several potential long-term effects which included infection, damage to flexor tendons, extensor tendons, symptomatic hardware, post-traumatic arthritis, loss of range of motion, loss of grip strength, incomplete pain relief, and the potential need for further surgeries in the future. (JE3, p. 46)

Claimant's argument relies on the temporal relationship between his work injury and the discovery of the encroaching screw. It is true that the work injury brought the encroaching screw to Dr. Berry's attention; however, there is little to no evidence the work injury caused or worsened the encroachment. In other words, the work injury brought the problem to light; it did not create the problem. A more logical explanation, and one supported by the opinions of Drs. Deignan and Berry, is that the settling of the lunate facet and the screw migration observed on diagnostic imaging was a natural consequence of claimant's original, severely comminuted fracture, not the result of the July 12, 2018, wrist strain.

In this case, I found Dr. Berry's medical opinions to be the most convincing causation opinions in the evidentiary record. Accordingly, I found that claimant failed to prove his left wrist condition and resulting surgery are causally related to or materially aggravated by the July 12, 2018, work injury.

The allegation that claimant's left carpal tunnel syndrome is causally related to the July 12, 2018, work injury is dependent upon a finding that the July 12, 2018, work injury materially aggravated claimant's pre-existing left wrist condition. Having determined claimant failed to prove his left wrist condition and resulting surgery are causally related to or materially aggravated by the July 12, 2018, work injury, I likewise find claimant failed to prove the alleged left carpal tunnel syndrome is causally related to the July 12, 2018, work injury.

Having determined claimant failed to prove the July 12, 2018, work injury materially aggravated his pre-existing left wrist condition or accelerated his need for the August 2, 2018, surgical intervention, I find the remaining issues are moot. Mr. Clopton is not entitled to an award of benefits in this case.

Claimant also seeks an assessment of his costs. Costs are assessed at the discretion of the agency. Iowa Code section 85.40. Claimant failed to establish entitlement to any additional workers' compensation benefits. Therefore, I conclude that it is not appropriate to assess claimant's costs in this action.

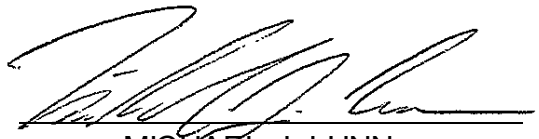
ORDER

THEREFORE, IT IS ORDERED:

Claimant takes nothing.

The parties shall each bear their own costs.

Signed and filed this 6th day of April, 2021.



MICHAEL J. LUNN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Michelle Schneiderheinze (via WCES)

Troy Howell (via WCES)

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or legal holiday.