OPINION ENTERED: SEPTEMBER 25, 2012

CLAIM NO. 201195699

JOSEPH T. LAMBEAU PETITIONER

VS. **APPEAL FROM HON. R. SCOTT BORDERS, ADMINISTRATIVE LAW JUDGE**

PASCHALL TRUCK LINES, INC.;
HON. R. SCOTT BORDERS,
ADMINISTRATIVE LAW JUDGE;
and SCOTT ORTHOPAEDIC CENTER, INC. et al. RESPONDENTS

OPINION AFFIRMING

* * * * * *

BEFORE: ALVEY, Chairman, STIVERS and SMITH, Members.

SMITH, Member. Joseph T. Lambeau (“Lambeau”), appeals from the April 23, 2012 Opinion and Order rendered by Hon. R. Scott Borders, Administrative Law Judge ("ALJ") dismissing his claim for right shoulder and right hand injuries occurring within the course and scope of his employment with Paschall Truck Lines, Incorporated ("PTL") and from the ALJ's May 18, 2012 order denying his petition for

reconsideration. Lambeau argues the ALJ erred in determining the injury of February 3, 2011 was at best an exacerbation of a 2005 work injury resulting in no new injury. We affirm.

Lambeau, now age 54, filed a Form 101 on August 17, 2011, alleging injuries on February 3, 2011 and again on March 6, 2011. He described the injuries as follows:

> 1) Plaintiff locked the trailer door and as he was returning to the truck he slipped and fell on a patch of ice.
>
> 2) Plaintiff was walking down the stairs in his back yard when he experienced such a sharp pain in his shoulder that it caused his arm to jerk back and strike his right hand on the railing resulting in a broken bone.

Lambeau testified by deposition on October 13, 2011 and at the formal hearing on February 22, 2011. He is a truck driver by trade with a Class A Commercial Driver's License ("CDL"). He also has tanker, hazmat and motorcycle endorsements. His Department of Transportation ("DOT") medical examiner's card is current and has never lapsed.

Lambeau testified he received workers' compensation benefits for a prior injury in 2005 when he was working out of Illinois. He injured his right shoulder and fractured his upper jaw as a result of a fall in Lebanon, Pennsylvania on February 14, 2005. He stated he was off

work for two to three months and "got paid workers' comp for those". He then received a lump sum settlement "around 50,000.00" for the remainder of the claim. He worked for several other trucking companies before joining PTL in 2010.

Lambeau explained his February 3, 2011 accident as follows:

> Q. Would you explain to the Judge what you were doing, roughly, and what happened? I understand you fell and all that. But, just explain that.
>
> A. I had just finished delivering a load of cardboard. I had pulled out of the dock out onto the street. I got out, went to the back, closed the doors, got back in the truck. Then I remembered that PTL requires you to put a lock on the trailer whenever it is loaded or empty. So I went back there with a lock, put the lock on the trailer, was walking back to the cab and that's when I remember slipping on some ice, falling backwards and catching myself with my right arm and my bottom.
>
> . . .
>
> Q. After that did you continue to drive, did you? Didn't you work?
>
> A. Yes. I finished -- finished for the night that night, went to bed and then went to another load and kept going from there.
>
> Q. Okay. When did you notify your employer about this?

> A. Actually, I think it was a day or two later that I noticed my DM that I had hurt my shoulder, had fallen. Actually, I think, at the time I asked about getting home. I didn't make a big urgency about it, it was sore, it kept getting like, more and more sore. And, finally I told her, you know, I -- I have to get home. And, then she said, did I call safety –
>
> . . .
>
> She said, had I called safety yet? And, I said, no, I hadn't. And, that's when I had called safety and let them know what had happened. And, then they told me to, I guess, see a doctor or something. Then I went and seen a doctor -- actually the day after I got home. I was able to see a doctor, Dr. Bannister. (Errors in original)

Lambeau testified he sustained an additional injury on March 6, 2011. He stated:

> I was out on my back deck, walking up the stairs, my wife was downstairs, she had come out of the basement door. She called me for something, I don't remember what it was. I turned around and put -- started walking down, put my arm on the banister there. And, I had such a jolt in my shoulder, I -- instinctively I flung my hand back and I hit the--we had a small metal pole on the side of the railing and my hand hit that. And, it hurt real bad. I mean, I -- but, I waited until I seen Dr. Tao they took an x-ray -- felt and took an x-ray and found out it was broken.(Errors in original).

Lambeau attributed the second injury on March 6, 2011 to his weakened shoulder condition resulting from the first injury of February 3, 2011. Lambeau returned to full-time work on October 13, 2011 as a driver for another trucking company after PTL refused to continue his employment.

Lea Wells, PTL's director of safety and risk management, also testified at the formal hearing. She stated she has been with PTL for 29 years and has been its safety director since 1991. She testified Lambeau drove an automatic shift truck at the time of his injury and was never required to load or unload the contents.

Lambeau filed the medical report of Anthony McEldowney, M.D., an orthopedic surgeon who evaluated him on November 11, 2011. Lambeau reported he had finished a delivery and had pulled out of the dock and closed the doors to his trailer but realized he needed to lock the doors as company policy required. As he was walking back to his truck, he slipped on ice, causing him to fall backward injuring his right shoulder, arm and buttocks. He had some initial soreness which worsened to the extent he later was referred to an orthopedic surgeon.

Lambeau also reported that on March 6, 2011, while traversing up the stairs to his house, his wife called him, causing him to turn suddenly which set off a sharp pain in

his shoulder causing him to lose his balance, striking his hand against a pole fracturing his fifth metacarpal. He now has numbness in the fourth and fifth digits of his right hand with some elbow pain. He has trouble walking his dogs on a leash for fear the force exerted would cause injury to his right shoulder.

Dr. McEldowney conducted a physical examination and diagnosed "1) work-related fall with right shoulder sprain/strain/internal derangement; 2) indirect impact injury dominant right hand with non-displaced closed right fifth metacarpal fracture." He determined these complaints were the direct result of the work-related injury Lambeau sustained to his right shoulder on February 3, 2011 and indirectly to an impact injury to his right hand on March 6, 2011 when his shoulder was unable to bear his weight on a staircase.

Dr. McEldowney noted that although Lambeau had returned to work as a truck driver, he continues to have significant problems with his right shoulder "specifically with overhead". Although Lambeau was an avid motorcycle rider before the injury to his right shoulder, he is now unable to ride because of his inability to control the motorbike. Utilizing the American Medical Association Guides to the Evaluation of Permanent Impairment, 5th

Edition ("AMA Guides"), Dr. McEldowney assessed a 6% whole person impairment. He also determined Lambeau retains the physical capacity to return to the type of work performed at the time of the injury "although he works in pain on a daily basis."

PTL submitted the report of Frank O. Bonnarens, M.D., who evaluated Lambeau on January 6, 2012. After taking a history consistent with that related above, Dr. Bonnarens conducted a physical examination which showed Lambeau to be a well-developed and well-nourished male in no acute distress. He had good range of motion of his neck and left upper extremity. Passively, he had full glenohumeral motion but with positive impingement signs, mildly positive crossarm test, and some tenderness to palpation overlying the AC joint. He had good abduction and external rotation strength.

Dr. Bonnarens reviewed the medical records relating to Lambeau's claim and noted:

> Based on the information that we have available combined with the x-ray findings on the MRI dated April 02, 2005 showing degenerative changes and inflammation at the AC joint, it looks like we are dealing with a longstanding problem with AC joint arthropathy. The patient's history of feeling the shoulder pain and then moving the hand so quickly he sustained a fracture is not consistent with the pattern that we

> would expect to see with the shoulder pain. Withdrawing the hand would certainly occur if he is putting the weight on it, but it is hard to fathom that he would withdraw the hand so suddenly and so violently as to sustain a fracture of the hand in the manner discussed and as such the hand fracture should not be considered related. In regards to the problems the patient is having with the hands that [sic] were significant signs of symptom magnification associated with the patient's movement of the shoulder and refusal to move it actively when passively has good movement, some of the complaints that he has the after effect, etc. are inconsistent with this being the problem. Given the fact that the patient has full range of motion of the shoulder, but he is limiting its active range of motion because of the complaints of pain does not result in impairment. Please place this on my desk for a separate calculation, but this impairment should be regarded with a fair degree of skepticism since it depends upon the patient's voluntary collaboration with the range of motion and as described above, the patient does have signs of symptom magnification associated with this. In regards on his hand, he has full range of motion, good strength and there is no impairment associated with this. In regards to the specific questions being asked, there are no clear objective findings that warrant and position permanent restriction on his activities as relates to the February 3, 2011 injury. (Errors in original)

In a separate report, Dr. Bonnarens assessed a 5% whole person impairment based upon the AMA Guides. He cautioned that this impairment rating was based upon

voluntary movement on Lambeau's part and stated “[i]t is highly inconsistent with the objective evidence and is also highly consistent with having the AC joint arthropathy.”

PTL submitted medical records from St. Mary's Occupational Health Center where Dr. Alan Young treated Lambeau for his previous work injury in 2005. Dr. Young diagnosed an acromioclavicular sprain. In his April 11, 2005 office note, Dr. Young noted Lambeau was “unable to do much with his shoulder” because it increased his pain. On April 27, 2005, Dr. Young noted Lambeau had been doing well with his shoulder until he tried to pick up a small bag of dog food and had increased pain in his right shoulder. Dr. Young noted Dr. Tao had advised Lambeau he was not a surgical candidate. On June 27, 2005, Dr. Young noted Lambeau had returned to work driving a truck with an automatic transmission. Lambeau continued to report having mild shoulder pain.

Both parties submitted medical records from Dr. Stanley Tao with Scott Orthopedic Center. The records included a report concerning an April 2, 2005 MRI of the right shoulder. Impressions were as follows:

> 1. Changes of the acromioclavicular joint may be inflammatory and should be correlated with physical findings. Injury would give a similar appearance.

2. Mild subacromion-subdeltoid bursitis.

3. If an anterior labral tear is suspected clinically, then the MR arthrography would be the imaging study of choice for further evaluation.

Lambeau saw Dr. Tao on April 19, 2005 with a chief complaint of right shoulder and left elbow pain. Dr. Tao took a history that, on February 14, 2005, Lambeau had fallen face first onto a concrete pole sustaining several facial injuries as well as injuries to his right shoulder, left shoulder and elbow. Dr. Tao's assessment was "resolving left elbow contusion" and "resolving right AC separation." On March 5, 2007, Dr. Tao noted Lambeau's right shoulder pain was getting worse and the pain occurred with lifting and overhead activities or motion.

Lambeau returned to Dr. Tao on March 8, 2011, upon referral by Dr. Bannister, after a slip and fall on ice on February 2, 2011. Dr. Tao diagnosed a fracture of a metacarpal bone and rotator cuff sprain. He also diagnosed bicipital tenosynovitis, joint pain, and carpal tunnel syndrome. On May 5, 2011, Dr. Tao noted Lambeau reported his right shoulder pain gradually progressed and was awakening him at night. Dr. Tao allowed Lambeau to return to work driving an automatic transmission truck on May 15, 2011. On June 7, 2011, Dr. Tao noted Lambeau's right

shoulder pain was gradually progressing. Dr. Tao diagnosed sprained right rotator cuff, bicipital tenosynovitis, and joint pain, upper arm. A June 13, 2011 note indicates Lambeau requested to be released to full duty work.

Lambeau submitted medical records of Dr. Tammy Bannister who saw Lambeau on February 15, 2011 for complaints of shoulder pain following a fall. Dr. Bannister diagnosed rotator cuff tendonitis secondary to fall. Dr. Bannister's records included the report of a February 15, 2011 MRI of the right shoulder revealing mild inferior osteophyte formation at the AC joint, consistent with mild osteoarthritis. The exam was otherwise normal with no acute abnormalities identified.

The ALJ rendered the following findings:

> The Defendant Employer, Paschall Truck Lines, argues that Mr. Lambeau has not met the burden of proving that he suffered an injury to his right shoulder as alleged on February 3, 2011.
>
> Paschall Truck Lines argues that his current right shoulder condition is related to the February 14, 2005, injury that he sustained while working for McLeod express and for which he received Illinois Worker's Compensation benefits. They argue that this position is substantiated by testimony of Dr. Bonnarens, who opined that the diagnostic evidence clearly establishes a long-standing active pre-existing AC joint arthropathy. While Dr. Bonnarens

does not specifically address the cause of Mr. Lambeau's current right shoulder condition other than making the above statement. It is readily apparent Dr. Bonnarens feels his right shoulder condition is chronic. Dr. Bonnarens goes on to assess him a 5% functional impairment rating, but does not state whether this impairment rating is a result of the February 3, 2011, work-related incident or was pre-existing and active. He also notes he assesses the rating with caution based on Plaintiff's symptom exaggeration.

Paschall Truck Lines submitted records from Illinois Worker's Compensation Commission which include the settlement contract, lump sum petition and order, a copy of the correspondence from Plaintiff agreeing to the settlement of his case, entry of appearance for the representative for the Plaintiff, an attorney representation agreement, and application for adjustment of claim. The records reflect that the settlement is based on a 20% loss of use of man as a whole and 15% loss of use of the right arm pursuant to the Illinois Worker's Compensation Act. Therefore, Mr. Lambeau has been compensated for his right shoulder injury.

In this specific instance, after careful review of the lay and medical testimony, the Administrative Law Judge finds that the Plaintiff has not met his burden of proving that he suffered an injury as defined by the Act as a result of the February 3, 2011, work-related incident, based upon the findings of Dr. Bonnarens, upon which he relies.

In so finding, the undersigned Administrative Law Judge finds that

Plaintiff suffered a prior right shoulder injury in 2005, for which he received benefits under the Illinois Worker's Compensation Act.

Further, Dr. Bonnarens states that based upon the MRI dated April 2, 2005, showing degenerative changes and inflammation at the AC joint, it looks like we are dealing with a long-standing problem with AC joint arthroplasty [sic]. It can therefore be inferred that Dr. Bonnarens does opine that Mr. Lambeau's current right shoulder condition is causally related to the 2005 incident and is not related to the 2011 incident. In addition, the Administrative Law Judge did not find Plaintiff's testimony to be reliable and felt that he was exaggerating his symptoms as noted by Dr. Bonnarens.

Mr. Lambeau also claims that as a result of his right shoulder injury, he fractured his right hand while coming down a staircase in the back of his house due to the sudden onset of right shoulder pain that caused him to jerk his arm right violently striking the same against the metal railing and causing him to fracture his right hand.

Dr. McEldowney opines the right-hand fracture was due to his work-related right shoulder injury. Dr. Bonnarens opined that the history of how he fractured his right hand is not consistent with the pattern that we would expect to see with shoulder pain. He stated it is hard to fathom that he would withdraw the hand so suddenly and so violently as to sustain the fracture of the hand in the matter [sic] discussed and therefore did not believe that this would be work-related.

> In this specific instance, after careful review of the way [sic] and medical testimony, the Administrative Law Judge finds that Mr. Lambeau has not met his burden of proving that his right-hand fracture is causally related to his alleged work-related right shoulder injury. In so finding the Administrative Law Judge relies upon and finds persuasive the opinion of Dr. Bonnarens who opined that Mr. Lambeau's story in this regard does not make logical sense. In addition, the Administrative Law Judge did not find Plaintiff's testimony to be credible. Therefore, Mr. Lambeau's claim for Worker's Compensation benefits as a result of an alleged right hand injury shall be dismissed.
>
> Due to the foregoing findings, the remaining issues herein are deemed moot.

Lambeau filed a petition for reconsideration requesting clarification of the ALJ's statements regarding the Illinois settlement, the ALJ's finding regarding the credibility of Lambeau's testimony, the ALJ's conclusions regarding Dr. Bonnarens' testimony and whether Lambeau sustained an injury.

On reconsideration, the ALJ found as follows:

> The Administrative Law Judge is of the opinion that Plaintiff's Petition for Reconsideration is nothing more than a re-argument of the case merits. However, the undersigned Administrative Law Judge will make the following additional findings of fact to further explain the basis for his opinion rendered herein.

The Plaintiff argued that the statement “therefore, Mr. Lambeau has been compensated for his right shoulder injury” to be a patent error on the face and asked the ALJ to qualify his statement by explaining what method he used to determine the amount of permanent income benefits paid to the Plaintiff. In making this statement the Administrative Law Judge found that the Plaintiff had suffered a prior right shoulder injury in 2005 and based on the evidence submitted into the record found that he had received workers compensation benefits under the Illinois Worker's Compensation Act for this injury. The Administrative Law Judge further finds that Plaintiff did not suffer a new injury as alleged by him on February 3, 2011 and that his current right arm condition dated back to the 2005 shoulder injury based on the medical testimony from Dr. Bonnarens, for which he received compensation under the Illinois Worker's Compensation act. This is why it was stated that he had therefore been compensated for his right shoulder injury.

The Plaintiff requested additional findings as to why the Administrative Law Judge did not find the Plaintiff's testimony to be reliable and felt he was exaggerating his symptoms. This finding was based on the observations made by the undersigned Administrative Law Judge at the final hearing when he [had] an opportunity to judge the Plaintiff's credibility and demeanor and coupling that with the medical evidence of record. As set forth in the Opinion and Order, the Administrative Law Judge did not find Mr. Lambeau's testimony to be credible as his story simply did not make sense.

To put it bluntly the Administrative Law Judge felt that Mr. Lambeau was lying.

The Plaintiff has requested additional findings as to how it can be inferred that Dr. Bonnarens does not believe Mr. Lambeau's current right shoulder condition is causally related to the 2011 incident and instead relates back to the 2005 incident. The Administrative Law Judge points the Plaintiff to page 20 of the Opinion and Order where it was stated “further, Dr. Bonnarens states that based upon the MRI dated April 2, 2005, showing degenerative changes and inflammation of the AC joint, it looks like we're dealing with a long-standing problem with AC joint arthropathy.” Therefore the Administrative Law Judge inferred that Dr. Bonnarens was of the opinion that Mr. Lambeau's right shoulder condition was a “long-standing problem with AC joint arthropathy.” The Administrative Law Judge therefore finds that an inference can be drawn that the 5% functional impairment rating assessed Mr. Lambeau was assessed for his “long-standing problem”.

Lastly, the Administrative Law Judge believes that based on the record as a whole that Mr. Lambeau did not meet his burden of proving that he suffered a harmful change to the human organism as evidenced by objective medical findings as a result of either the February 3, 2011 incident or March 6, 2011 incident to entitle him to workers compensation benefits under the Kentucky Worker's Compensation Act. The Administrative Law Judge is of the opinion that his right shoulder condition was of long-standing duration and related back to the 2005 work-

> related incident and that the 2011 incident, if the same even occurred, was nothing more than a temporary transient exacerbation of the same and does not constitute an injury as defined by the act.

On appeal, Lambeau argues the ALJ erred in finding no work injury. Lambeau states the ALJ concluded that, by virtue of the settlement in Illinois, he had already been paid for his right shoulder injury. Lambeau argues there is no indication in the Illinois documentation that he received compensation for a permanent impairment of his shoulder ratable pursuant to the AMA Guides, latest addition, as required by KRS 342.730(1)(b). Lambeau notes he testified he received no permanent income benefits and was never assigned a permanent impairment rating as a result of the 2005 injury. To the contrary, he notes the settlement appears to be payment for all aspects of the 2005 claim including past, present and future medical expenses, right to appeal, right to a trial, and right to reopen. He asserts it is unknown precisely how much of the settlement represented income benefits. Lambeau argues that, since he returned to his regular employment four months following the 2005 injury, it would appear his right shoulder complaints had fairly well resolved long before February 3, 2011.

Lambeau notes PTL introduced no expert testimony explaining Illinois law or procedure or in what manner Illinois law is compatible or incompatible with Kentucky law. Thus, he contends there is no testimony in the record to allow the ALJ to determine the effect of the Illinois settlement on his 2011 right shoulder claim. Lambeau further contends there is no indication the ALJ understood the Illinois terms of settlement as they relate to the right shoulder injury. Since the Illinois agreement cannot be fully understood, Lambeau contends it cannot be given effect in the present claim. Lambeau contends the ALJ, in effect, concluded the employer was to be given a credit for Illinois benefits that were paid years prior to the 2011 injury. Lambeau argues there is no authority to award a credit for benefits paid in 2005 against the 2011 injury. Therefore, it appears it was purely presumptive, speculative and arbitrary for the ALJ to conclude Lambeau had already been compensated for his right shoulder injury.

Lambeau acknowledges the ALJ has wide discretion in determining the facts and is free to weigh the evidence and believe or disbelieve any part of it. Nevertheless, Lambeau argues the ALJ's discretion is not unfettered and it was not sufficient for the ALJ to simply state Lambeau was not credible without providing reasons for that

conclusion. Lambeau notes that, on reconsideration, he asked the ALJ to identify portions of testimony he considered to be false, misleading, inaccurate, contradictory, incomplete or unclear but the ALJ did not do so. Lambeau notes his description of the injury has not changed and he has consistently testified concerning the injury. Further, he gave the same history to both Dr. McEldowney and Dr. Bonnarens, the IME physicians. Lambeau contends there is no evidence, either lay or medical, contradicting his testimony. He contends there is no evidence his shoulder injury occurred anywhere else, at any other time, or in any other manner.

Lambeau argues the ALJ mistakenly inferred the 5% functional impairment rating assigned by Dr. Bonnarens was assessed for the long-standing problem with AC joint arthropathy. Lambeau contends nothing in Dr. Bonnarens' testimony indicated he assigned a 5% rating on the basis of arthropathy. Instead, Lambeau contends Dr. Bonnarens quite clearly assigned a 5% rating due to loss of motion in the right shoulder. Lambeau argues the ALJ seems to confuse impairment with impairment rating. The ALJ chose to believe Dr. Bonnarens' opinion that Lambeau had a pre-existing impairment prior to February 3, 2011. However, Lambeau argues nothing contained in Dr. Bonnarens'

testimony indicates a 5% impairment rating based on loss of range of motion existed prior to February 3, 2011. Lambeau contends it would be impossible for Dr. Bonnarens to assume the current loss of range of motion in the right shoulder existed prior to February 3, 2011.

Lambeau argues the ALJ improperly assumed there was a pre-existing active impairment. Lambeau notes, under Kentucky law, to be characterized as active, an underlying pre-existing condition must be symptomatic and impairment ratable pursuant to the AMA Guides immediately prior to the occurrence of the work-related injury. Lambeau argues the ALJ's inference that the 5% impairment pre-existed the work injury is incompatible with Kentucky law. He contends he was both asymptomatic and there is no proof the pre-injury condition was impairment ratable. Lambeau notes he was performing regular duty work on February 3, 2011 with no shoulder complaints or restrictions. He notes he was not under a physician's care and was taking no medication for his right shoulder.

Lambeau argues the record contains no medical opinion that he had a 5% pre-existing active impairment prior to February 3, 2011. Lambeau notes the burden of proving the existence of a pre-existing condition falls upon the employer. Given the fact PTL introduced no proof of a 5%

pre-existing active impairment, Lambeau argues it was patent error for the ALJ to remove PTL's burden by inferring an essential fact that does not appear in the record. Lambeau contends that, in effect, the ALJ shifted PTL's burden of proof to Lambeau by concluding he did not suffer an injury due to the fact the ALJ had inferred the injury to be a pre-existing active impairment.

Lambeau argues loss of motion in his shoulder clearly exists. He notes Dr. McEldowney also assigned a 5% impairment due to loss of motion of the right shoulder. Lambeau notes the ALJ incorporated Dr. Bonnarens' opinion that Lambeau exaggerated his symptoms. However, Lambeau states it must not go unnoticed that Dr. Bonnarens did assign a 5% impairment rating. Lambeau contends it is apparent the shoulder condition was a dormant non-disabling condition brought into disabling reality by the fall at work. Finally, Lambeau notes that even a temporary transient exacerbation does constitute an injury as defined by the act.

As the claimant, Lambeau had the burden of proving each of the essential elements of his cause of action, including the occurrence of a work-related injury. *See* KRS 342.0011(1); Burton v. Foster Wheeler Corp., 72 S.W.3d 925 (Ky. 2002). Since Lambeau was unsuccessful in that burden,

the question on appeal is whether the evidence compels a different conclusion. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). Compelling evidence is defined as evidence that is so overwhelming, no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985).

As fact-finder, the ALJ has the sole authority to determine the weight, credibility and substance of the evidence. Square D Company v. Tipton, 862 S.W.2d 308 (Ky. 1993). Similarly, the ALJ has the discretion to judge all reasonable inferences to be drawn from the evidence. Miller v. East Kentucky Beverage/Pepsico, Inc., 951 S.W.2d 329 (Ky. 1997). Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979). The ALJ may reject any testimony and believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same adversary party's total proof. Magic Coal Co. v. Fox, 19 S.W.3d 88 (Ky. 2000).

Although a party may note evidence that would have supported a different outcome than that reached by the ALJ, such proof is not an adequate basis to reverse on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). Rather, it must be shown there was no evidence of

substantial probative value to support the ALJ's decision. Special Fund v. Francis, 708 S.W.2d 641 (Ky. 1986).

The ALJ found more persuasive the medical report of Dr. Bonnarens who stated Lambeau had a longstanding AC joint arthropathy. While Dr. Bonnarens assigned an impairment rating, he indicated the rating was based upon voluntary movement by Lambeau which was "highly inconsistent" with the objective evidence and "highly consistent with having the AC joint arthropathy." Additionally, the February 10, 2006 record of Dr. Stephen L. Sebert of Ultimate Health Services indicates Lambeau was advised his shoulder pain would continue and worsen as he aged "as this is probably acceleration of the normal aging process." There is ample evidence establishing Lambeau had a pre-existing harmful change to the AC joint.

In the May 18, 2012 order, the ALJ unequivocally found Lambeau failed to prove he suffered a harmful change to the human organism as evidenced by objective medical findings as a result of the alleged work injuries. From the ALJ's Opinion and Order it is apparent he did not believe the alleged incidents occurred. He openly stated, "[t]o put it bluntly the Administrative Law Judge felt that Mr. Lambeau was lying."

Since the ALJ determined there was no harmful change as a result of the alleged incident, Lambeau's arguments concerning pre-existing impairment are, for the most part, extraneous. Since the ALJ determined there was no harmful change as a result of the alleged incidents, the incidents could produce neither impairment nor an impairment rating. Even so, we believe the ALJ could reasonably infer Dr. Bonnarens assessed the 5% impairment for loss of range of motion associated with the pre-existing AC arthropathy.

Lambeau's claim depends largely on the credibility of his testimony. Unfortunately for Lambeau, the ALJ found that testimony was not credible. The mere fact Lambeau gave a consistent account of the incidents does not compel a finding that account is correct. The ALJ noted his finding regarding credibility was based on observation of Lambeau coupled with the medical evidence. Dr. Bonnarens doubted Lambeau's complaints and did not believe Lambeau's account regarding the alleged hand injury. The ALJ's findings regarding Lambeau's credibility are sufficient to apprise the parties of the basis for his decision. While authority generally establishes an ALJ must effectively set forth adequate findings of fact from the evidence in order to apprise the parties of the basis for his decision, he is not required to recount the record with line-by-line

specificity nor engage in a detailed explanation of the minutia of his reasoning in reaching a particular result. Shields v. Pittsburgh and Midway Coal Mining Co., 634 S.W.2d 440 (Ky. App. 1982); Big Sandy Community Action Program v. Chaffins, 502 S.W.2d 526 (Ky. 1973).

Accordingly, the April 23, 2012 Opinion and Order rendered by Hon. R. Scott Borders, Administrative Law Judge, and the May 18, 2012 order are hereby **AFFIRMED**.

ALL CONCUR.

COUNSEL FOR PETITIONER:

HON JAMES D HOWES
5438 NEW CUT RD #201
LOUISVILLE, KY 40214

COUNSEL FOR RESPONDENT:

HON SHARLOTT HIGDON
PO BOX 995
PADUCAH, KY 42002

ADMINISTRATIVE LAW JUDGE:

HON R SCOTT BORDERS
8120 DREAM STREET
FLORENCE, KY 41042