Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: March 18, 2016

CLAIM NO. 201461297

LEXINGTON FAYETTE URBAN CO. GOVERNMENT PETITIONER

VS. **APPEAL FROM HON. DOUGLAS W. GOTT, ADMINISTRATIVE LAW JUDGE**

JEFF STEVENS and
HON. DOUGLAS W. GOTT,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING

* * * * * *

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

ALVEY, Chairman. Lexington-Fayette Urban County Government ("LFUCG") appeals from the Opinion, Award, and Order rendered November 12, 2015 by Hon. Douglas W. Gott, Administrative Law Judge ("ALJ") awarding Jeff Stevens ("Stevens") temporary total disability ("TTD") benefits, permanent partial disability ("PPD") benefits, and medical

benefits for work-related injuries to his right upper extremity sustained on March 20, 2013. LFUCG also seeks review of the December 9, 2015 order denying its petition for reconsideration.

On appeal, LFUCG argues the ALJ failed to make sufficient findings of fact regarding why he chose to rely upon the 6% impairment rating assessed by Drs. Martin Favetto and Betty Jean Ouyang rather than the one assessed by Dr. Frank Burke. For the reasons set forth below, we affirm.

Stevens filed a Form 101 alleging he injured his right arm and elbow on March 20, 2013 while performing training exercises as a firefighter for LFUCG.

Stevens testified by deposition on May 21, 2015, and at the hearing held October 21, 2015. Stevens, a resident of Richmond, Kentucky, is right-hand dominant. He had been a firefighter for LFUCG for over seventeen years. Stevens described his job as very physically demanding, and required him to participate in training exercises. On March 20, 2013, Stevens was participating in a training exercise wearing full gear, which he estimated weighed eighty pounds. Stevens descended from a roof using a ladder, and entered head-first into a building through a second story window. He landed hard on the floor onto his

right side. He experienced a pop in his right arm with an immediate onset of pain in his right elbow and general weakness in his right arm. Stevens was eventually sent to an urgent care treatment center, and was then referred to Dr. Favetto, a hand specialist with Bluegrass Orthopedics. After a failed course of conservative treatment, Dr. Favetto performed surgery on November 10, 2014 which consisted of releases of the right carpal tunnel and lateral epicondyle. Thereafter, Stevens completed physical therapy, work conditioning and work hardening. Dr. Favetto then ordered a functional capacity evaluation ("FCE").

After the injury, Stevens worked light duty earning his usual wages, except for the two weeks he was off work recuperating from his surgery. Pursuant to the FCE in May 2015, Dr. Favetto assigned permanent restrictions, which prevented Stevens from returning to his full job as a firefighter. Stevens was later approved for disability retirement benefits and his last day of work was August 12, 2015. Once he applied, the retirement board referred him to Drs. Ouyang and Burke. Stevens testified he continues to experience right elbow pain and difficulty gripping with his right hand, especially when his right arm is extended fully in front of him. He does not believe he

can return to his job as a firefighter due to his limitations and restrictions.

Stevens had previously undergone physical therapy for both hands in 2008 for carpal tunnel syndrome and tendonitis. In 2011, he had an EMG/NCV study due to numbness and tingling in his hands, and was subsequently prescribed braces and rest. Stevens returned to full duty and was not experiencing any ongoing symptoms prior to his March 20, 2013 fall.

Both Stevens and LFUCG filed the treatment records of Dr. Favetto, who began treating him on May 9, 2013. A May 20, 2013 right elbow MRI demonstrated lateral epicondylitis and moderate sprain of the humeral attachment of the radial collateral ligament. The MRI report indicated partial tears of these structures could not be excluded. After a period of physical therapy with no improvement, Dr. Favetto ordered an EMG/NCV study. The August 28, 2014 study was abnormal and consistent with pathology of bilateral median nerves at the wrists. As a result of failed conservative treatment, Dr. Favetto performed right carpal tunnel and right lateral epicondylitis releases and reconstruction on November 10, 2014.

An FCE was conducted on May 12, 2015 by Ryan Foister. He noted the overall testing results in combination with clinical observations suggest Stevens provided full physical effort. The examination revealed Stevens' range of motion with his upper extremities was within functional limit; however, his grip strength was considered weak with elbows flexed. His strength average significantly decreased with full elbow extension. The right grip strength was 30% less than normal and 36% less than his unaffected, non-dominant left upper extremity. His grip strength decreased 29% with the elbow in full extension, and muscle testing of the extensor carpi radialis brevis yielded a 41% differential from the unaffected non-dominant extremity. Mr. Foister found no impairment, but assigned lifting restrictions which would prevent Stevens from returning to his pre-injury job as a firefighter. Stevens demonstrated the ability to work at the medium physical demand level. Attached to the report are results of various tests performed as part of the FCE, including the results of grip strength testing.

LFUCG also filed the prior treatment records from the Lexington Clinic. On August 29, 2008, Stevens was diagnosed with carpal tunnel syndrome and mild bilateral epicondylitis. Stevens underwent physical therapy in

September and October 2008, and was provided wrist splints. On May 16, 2011, an EMG/NCV study was consistent with bilateral carpal tunnel syndrome.

In support of his claim, Stevens filed the June 8, 2015 medical report of Dr. Favetto, who also testified by deposition on September 9, 2015. He diagnosed Stevens with status post right carpal tunnel release and right lateral epicondylitis release and reconstruction. He stated Stevens' injury caused his complaints. He found Stevens reached maximum medical improvement ("MMI") on May 15, 2015, and permanently restricted him to work at the medium physical demand level. Dr. Favetto noted Stevens had regained full range of motion of the elbow and wrist, but continues to have weakness with gripping, lifting, pushing and pulling. Dr. Favetto assessed a 6% impairment rating pursuant to what he stated was the most recent American Medical Association, Guides to the Evaluation of Permanent Impairment ("AMA Guides"). Citing to Chapter 16, Table 16-34, Dr. Favetto based his impairment rating upon Stevens' grip strength stating, "30% loss of strength right upper extremity compared to the left (validated by the FCE) results in a (10%) right upper extremity impairment. This can be converted to a 6% whole person impairment." Dr.

Favetto opined Stevens does not retain the capacity to return to his job as a firefighter.

Dr. Favetto testified he performed carpal tunnel and lateral epicondyle releases in November 2014. Dr. Favetto considered the surgery successful, and opined Stevens' elbow condition is as good as it is going to get. Dr. Favetto stated he ordered an FCE since it is the most objective way of determining a patient's limitations. Dr. Favetto opined it was very likely Stevens' carpal tunnel syndrome was already present, but asymptomatic, at the time of the March 20, 2013 injury. He also stated it is common for an injury to worsen or aggravate the carpal tunnel. Dr. Favetto stated the need for the carpal tunnel and epicondyle releases were both triggered by the work injury.

With regard to impairment, Dr. Favetto stated he assessed a 6% impairment rating based upon a 30% lack of strength in Stevens' right hand versus his left as demonstrated at the FCE. Dr. Favetto conceded the use of grip strength as a measure of impairment "is not the best way" of measuring impairment, stating as follows:

> A: When strength is the only thing that we can rate, we have to be very cautious.
>
> Q: So you err on the side of conservatism?

> A: You do because you - -
>
> Q: Okay.
>
> A: Loss of strength is a subjective finding. We did validate it with the [FCE], which tests strength in multiple different ways, but you have to be cautious in rating it.
>
> Q: That's fair enough. What you did was - - the FCE had multiple challengers, and he rated consistent performance, and so you give him a lower number because that's the method that's utilized. And I think the guidelines indicate that in the text.
>
> A: That's what they say. You have to be very, very cautious, especially for measuring impairment.

Stevens also filed the January 20, 2015 report of Dr. James Owen. He diagnosed status post epicondylitis with release and reconstruction with mild persistent range of motion of the elbow and clear cut grip strength weakness, and a carpal tunnel release at the same surgery. Using what he stated was the most recent AMA Guides, Dr. Owen assessed a 4% impairment rating based upon range of motion, and 1% for pain. In an addendum dated June 23, 2015, after reviewing the FCE showing significant grip strength diminution, Dr. Owen recommended changing the impairment rating to reflect the grip strength and range of motion. Dr. Owen assessed a 4% for range of motion, and

12% for grip strength, for a combined total of a 16% impairment rating.

Stevens filed the July 9, 2015 report of Dr. Ouyang, who evaluated him at the request of the Secretary of the Board of Trustees for Police and Firefighters retirement. Dr. Ouyang noted her examination revealed full range of motion in the right elbow, but decreased strength on the right in the distal forearm and the wrist. She diagnosed Stevens with lateral epicondylitis, sprain on the right collateral ligament and carpal tunnel syndrome. Dr. Ouyang found the lateral epicondylitis and the sprain occurred during the March 2013 training and that the carpal tunnel syndrome was aggravated by his elbow injury while working as a firefighter. Dr. Ouyang opined Stevens is at MMI and is unable to perform his duties as a firefighter. Using the AMA Guides, Dr. Ouyang stated as follows:

> Stevens is best evaluated by grip strength. He did not qualify for an impairment under range of motion or from Table 16-27. His upper extremity impairment was 10%. This translates into 6% whole person impairment. Table 16-32 and table 16-34 were used for calculating this impairment rating.

Finally, Stevens filed the July 16, 2015 report of Dr. Burke. He diagnosed an acute injury to the lateral aspect of the elbow damaging both his ECRB and lateral

capsule with a sprain of the LCL, resulting in mild laxity. Dr. Burke noted these structures aid in the stabilization of the hand for gripping activities. Dr. Burke opined Stevens' injury will prevent him from returning to unrestricted gripping activities required of very heavy-duty labor required of firefighters. Dr. Burke stated Stevens is at MMI and has been given appropriate restrictions. Regarding impairment, Dr. Burke stated:

> Utilizing the [AMA Guides], Fifth Edition and Table 16-24 on page 502, this patient has a mild medial lateral deviation resulting in 4% whole person impairment. Utilizing Figures 16-34 and 16-37 on Page 472 and 474, this patient has 1% whole person impairment for his loss of motion. These values are combined for a total of 5% total whole person impairment.

LFUCG filed the May 15, 2015 report of Dr. Ronald Burgess, who also testified by deposition on October 7, 2015. He diagnosed status post repair releases of the right lateral epicondylitis and right carpal tunnel. Dr. Burgess opined the carpal tunnel was symptomatic in 2011, and Stevens' current symptoms represent a gradual progression of a chronic condition. He found Stevens demonstrated limiting behavior on the grip strength testing. Dr. Burgess stated Stevens is at MMI and can return to his job as a firefighter without restrictions.

Using the Fifth Edition of the AMA Guides, Section 16.7d, Dr. Burgess assessed a 0% impairment rating following epicondylar repair with full range of motion and strength and a 3% impairment rating for the successful release of the right carpal tunnel.

In a May 27, 2015 addendum, Dr. Burgess noted he reviewed the FCE. He reiterated his objective testing, which demonstrated the reversal of the bell-shaped curve and increase with rapid exchange grip, showed Stevens' abilities are greater than he is subjectively portraying. However, he agreed with the medium-heavy level restriction as recommended by the FCE.

Dr. Burgess testified Stevens' lateral epicondylitis injuries are related to the March 20, 2013 work accident. However, the right carpal tunnel syndrome and subsequent release were neither caused nor exacerbated by the work injury. Based upon the FCE, Dr. Burgess stated his original opinion regarding the need for restrictions changed. He stated Stevens is restricted to medium heavy activity, which would prevent him from returning to his former job as a firefighter. He noted there are portions of the FCE report which also support his finding of limiting behavior.

Dr. Burgess administered two tests to measure Stevens' grip strength. The first is the five settings, also referred to as Jamar dynamometer. Typically, one is expected to see the strongest grip at the second or third setting. In Stevens' case, his strongest grip occurred at the fourth setting, and less so at the second and third setting, which results in a reversal of a bell shaped curve. The second test, the rapid exchange grip, demonstrated significant elevation in grip strength. Based upon these results, Dr. Burgess opined: "His complaints of loss of grip strength were not ratable," stating as follows:

> A: A self-limiting person will not squeeze as hard as they are capable of, and often reflected in the loss of the bell shaped curve and significant elevation with rapid exchange grip.
>
> Q: Now, you mentioned, and maybe I'll quit here, but you mentioned a reversed bell shaped curve earlier in testing?
>
> A: Yeah, it just means that the highest settings are either the fourth or fifth rather than the second or third.
>
> Q: And the reverse, is it in any way indicative of any type of self-limiting performance?
>
> A: I would not ascribe psychological basis for it. It just shows as the part of the AMA guides that it's invalid as a measurement tool for

> impairment. For whatever reason the person is not doing maximal, you cannot use that for impairment purposes, because it's an invalid measurement.
>
> Q: Why is it invalid?
>
> A: Because it is - - according to the validity criteria is laid out, it is not felt to be accurate, according to the AMA guides.
>
> Q: But I mean just from a lay perspective what's the deficiency? What is the theory behind the lack of accuracy that an individual could do more, that the machine is off? What?
>
> A: The assumption is that it is not a true reflection of their maximum strength and therefore is not rateable.

LFUCG filed the July 8, 2015 report of Dr. David Jenkinson, who opined Stevens possibly suffered a minor strain/sprain of the right elbow due to the March 20, 2013 event. He further opined the conditions of lateral epicondylitis and carpal tunnel syndrome were pre-existing conditions. The March 20, 2013 sprain/strain may have caused a transient exacerbation of symptoms in the right elbow which should have resolved after a short course of treatment. Dr. Jenkinson assessed a 0% impairment rating pursuant to the AMA Guides.

Finally, LFUCG filed the October 16, 2015 report of Dr. Christopher Brigham. After reviewing the medical

records, he found it is probable there is no permanent impairment. He stated it is probable Stevens' grip strength will further improve, and eventually return to normal. Dr. Brigham opined Stevens' carpal tunnel syndrome is unrelated to his work injury, and is probably related to his obesity.

In the November 12, 2015 opinion, the ALJ found the lateral epicondylitis injury related to the March 20, 2013 work injury based upon the opinion of Drs. Favetto, Owen, Burgess, and Ouyang. Similarly, the ALJ found the work injury aggravated Stevens' pre-existing carpal tunnel syndrome into disabling reality based upon the opinions of Dr. Favetto, Ouyang, and Owen, as well as Stevens' testimony. The ALJ found Stevens lacks the physical capacity to return to his former job as a firefighter, and is therefore entitled to the three multiplier. Regarding impairment, the ALJ stated as follows:

> In this case, the ALJ believes Stevens' impairment is best rated on loss of grip strength, and relies on the evidence from Dr. Favetto and Dr. Ouyang to find his impairment is 6%. This finding is also supported by the results of "Grip Strength" testing within the FCE report. (See also Dr. Favetto depo p. 22).

The ALJ awarded TTD benefits as paid[1], PPD benefits, and medical benefits for the right upper extremity injury.

LFUCG filed a petition for reconsideration arguing the ALJ erred by relying on impairment ratings from Drs. Ouyang and Favetto since they state they used the "most recent" edition of the AMA Guides, which would be the Sixth Edition, rather than the mandated Fifth Edition. It also argued, as it does now appeal, the opinion does not provide any reason for his conclusion Stevens' impairment rating "is best rated on loss of grip strength," and requested additional findings of fact as to the evidentiary basis for his conclusory statement. It also requested, as it does on appeal, the ALJ make additional findings of fact addressing whether the 5% impairment rating using range of motion by Dr. Burke is most appropriate, since it is not based on grip strength.

In the Order denying LFUCG's petition, the ALJ first rejected its allegation Dr. Favetto and Ouyang used the Sixth Edition of the AMA Guides, and found the evaluating physicians utilized the Fifth Edition. With

[1] The parties stipulated LFUCG voluntarily paid TTD benefits from November 10, 2014 through November 26, 2014 while Stevens recovered from surgery.

regard to the remainder of LFUCG's petition, the ALJ stated as follows:

> Next, the Defendant argues that the ALJ did not provide sufficient explanation for his reliance on Dr. Favetto's and Dr. Ouyang's opinions on impairment. Both doctors said the impairment was deserved based on loss of grip strength, which is why the ALJ said Plaintiff was best rated on loss of grip strength. No more elaboration is necessary. The Defendant is rearguing the merits of the ALJ's decision, contrary to KRS 342.281.
>
> Finally, the Defendant further reargues the case in challenging the adopting of Dr. Favetto's and Dr. Ouyang's 6% impairment rating over the 5% rating assigned by Dr. Burke. The discretion to choose between conflicting expert opinions rests exclusively with the ALJ. *Staples v. Konvelski,* 56 S.W.3d 412 (Ky. 2001). The ALJ found Dr. Favetto and Dr. Ouyang more persuasive. In so finding, the ALJ is not required to engage in a detailed discussion of the facts or set forth the minute details of his reasoning in reaching a particular result. The only requirement is the decision must adequately set forth the basic facts upon which the ultimate conclusion was drawn so the parties are reasonably apprised of the basis of the decision so as to provide for meaningful appellate review. *Big Sandy Community Action Program v. Chafins*, 502 S.W.2d 526 (Ky. 1973); *Shields v. Pittsburgh and Midway Coal Mining Co.*, 634 S.W.2d 440 (Ky. App. 1982). As to all issues, the ALJ has provided well more than the required explanation for his findings and conclusions. The petition is denied.

On appeal, LFUCG argues the ALJ failed to make sufficient findings of fact explaining why he relied upon impairment ratings assessed by Drs. Favetto and Dr. Ouyang, who based their figures on grip strength, versus the impairment rating by Dr. Burke, who used elbow joint deviation and range of motion in accordance with the AMA Guides. It asserts the ALJ made a conclusory statement Stevens' impairment was best rated based on grip strength without providing sufficient explanation or reasoning in support of his conclusion. It pointed out Dr. Burgess testified why grip strength was not a valid measurement of impairment in this claim since Stevens demonstrated less than maximal effort throughout testing. It also cites to pages 508 and 509 of the AMA Guides. LFUCG requests this claim be remanded for additional findings of fact addressing why the ALJ choose to rely upon the impairment opinions of Drs. Favetto and Ouyang over Dr. Burke's.

We find no error in the ALJ's reliance upon Drs. Favetto and Ouyang who assessed a 6% impairment rating based upon grip strength. Likewise, we find the ALJ provided adequate findings of fact apprising the parties of the basis for his decision regarding Stevens' impairment. As the claimant in a workers' compensation proceeding, Stevens had the burden of proving each of the essential

elements of his cause of action. *See* KRS 342.0011(1); Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Since Stevens was successful in that burden, the question on appeal is whether there was substantial evidence of record to support the ALJ's decision. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). "Substantial evidence" is defined as evidence of relevant consequence having the fitness to induce conviction in the minds of reasonable persons. Smyzer v. B. F. Goodrich Chemical Co., 474 S.W.2d 367 (Ky. 1971).

As fact-finder, the ALJ has the sole authority to determine the weight, credibility and substance of the evidence. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993). Similarly, the ALJ has the discretion to determine 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 an ALJ, such proof is not an adequate basis

to reverse on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). The Board, as an appellate tribunal, may not usurp the ALJ's role as fact-finder by superimposing its own appraisals as to the weight and credibility to be afforded the evidence or by noting reasonable inferences that otherwise could have been drawn from the record. Whittaker v. Rowland, 998 S.W.2d 479, 481 (Ky. 1999). So long as the ALJ's ruling with regard to an issue is supported by substantial evidence, it may not be disturbed on appeal. Special Fund v. Francis, 708 S.W.2d 641, 643 (Ky. 1986).

For purposes of granting an award of PPD benefits, an impairment rating pursuant to the AMA Guides is mandatory. *See* KRS 342.0011(11)(b), (35) and (36). In Kentucky River Enterprises, Inc. v. Elkins, 107 S.W.3d 206 (Ky. 2003), the Kentucky Supreme Court instructed the proper interpretation of the AMA Guides is a medical question solely within the province of the medical experts. In George Humfleet Mobile Homes v. Christman, 125 S.W.3d 288 (Ky. 2004), the Court further held, while an ALJ is not authorized to independently interpret the AMA Guides, he may as fact-finder consult the Guides in the process of assigning weight and credibility to evidence. Although assigning a permanent impairment rating is a matter for

medical experts, determining the weight and character of medical testimony and drawing reasonable inferences therefrom are matters for the ALJ. Knott County Nursing Home v. Wallen, 74 S.W.3d 706 (Ky. 2002). Moreover, authority to select an impairment rating assigned by an expert medical witness rests with the ALJ. *See* KRS 342.0011 (35) and (36); Staples, Inc. v. Konvelski, 56 S.W.3d 412 (Ky. 2001). Therefore, so long as there is sufficient information contained within a medical expert's testimony from which an ALJ can reasonably infer that the assessed impairment is based upon the 5th Edition of the AMA Guides, the ALJ as fact-finder is free to adopt that expert's impairment rating for purposes of calculating an injured worker's permanent disability rating pursuant to KRS 342.730(1)(b).

In his report, Dr. Favetto reviewed the treatment he had provided to Stevens, and ordered an FCE. Dr. Favetto noted Stevens had regained full range of motion of the elbow and wrist, but continues to have weakness with gripping, lifting, pushing and pulling. Dr. Favetto assessed a 6% impairment rating pursuant to the AMA Guides, and cited specifically to Chapter 16, Table 16-34. Dr. Favetto based his impairment upon Stevens' grip strength stating, "30% loss of strength right upper extremity

compared to the left (validated by the FCE) results in a (10%) right upper extremity impairment. This can be converted to a 6% whole person impairment." Dr. Favetto provided similar testimony at his September 9, 2015 deposition. He also explained, "When strength is the only thing that we can rate, we have to be very cautious." As a result, he provided a conservative impairment rating. He also explained loss of strength is a subjective finding, but that he validated it with the FCE. Dr. Ouyang also assessed a 6% impairment rating pursuant to the AMA Guides, noting, "Stevens is best evaluated by grip strength. He did not qualify for an impairment under range of motion or from Table 16.27." Citing to Tables 16-32 and 16-34, Dr. Ouyang assessed a 6% impairment rating.

In the May 12, 2015 FCE report, Mr. Foister noted overall testing findings in combination with clinical observations suggest the presence of full physical effort by Stevens. Mr. Foister stated Stevens' grip strength is considered weak with elbows flexed, with strength average significantly decreasing with full elbow extension. He noted the right grip strength is 30% less than normal and 36% less than his unaffected, non-dominant left upper extremity. He noted grip strength decreased 29% with the elbow in full extension, and muscle testing of the ECRB via

Micro Fett yielding a 41% differential between the unaffected non-dominant extremity. Attached to the report are the results of various tests performed as part of the FCE, including the results of grip strength testing.

In light of the above assessments, as well as the FCE, the ALJ could reasonably conclude the impairment rating is based upon the Fifth Edition of the AMA Guides, and the application is accurate. Although it would have been better for the medical evidence to clearly state which edition was utilized, the information provided was sufficient for the ALJ to conclude the appropriate edition of the AMA Guides was utilized. While Drs. Burke and Burgess arrived at a different conclusion based upon their examinations of Stevens, their opinions represent nothing more than conflicting evidence which the ALJ, as fact-finder, was free to reject. Caudill v. Maloney's Discount Stores, 560 S.W.2d 15 (Ky. 1977).

We acknowledge parties are entitled to findings sufficient to inform them of the basis for the ALJ's decision to allow for meaningful review. Kentland Elkhorn Coal Corp. v. Yates, 743 S.W.2d 47 (Ky. App. 1988); Shields v. Pittsburgh and Midway Coal Mining Co., 634 S.W.2d 440 (Ky. App. 1982). This Board is cognizant of the fact an ALJ is not required to engage in a detailed discussion of

the facts or set forth the minute details of his reasoning in reaching a particular result. The only requirement is the decision must adequately set forth the basic facts upon which the ultimate conclusion was drawn so the parties are reasonably apprised of the basis of the decision. Big Sandy Community Action Program v. Chafins, 502 S.W.2d 526 (Ky. 1973); New Directions Housing Authority v. Walker, 149 S.W.3d 354 (Ky. 2004). In this instance, we determine the ALJ sufficiently provided the basis for his decision regarding the applicable impairment rating, and substantial evidence supports his determination. Therefore, we affirm.

Accordingly, the November 12, 2015 Opinion, Award, and Order and the December 9, 2015 order on petition for reconsideration rendered by Hon. Douglas W. Gott, Administrative Law Judge, are hereby **AFFIRMED.**

ALL CONCUR.

COUNSEL FOR PETITIONER:

HON THOMAS L FERRERI
614 WEST MAIN ST, STE 5500
LOUISVILLE, KY 40202

COUNSEL FOR RESPONDENT:

HON DONALD R TODD
153 MARKET STREET
LEXINGTON, KY 40507

ADMINISTRATIVE LAW JUDGE:

HON DOUGLAS W GOTT
PREVENTION PARK
657 CHAMBERLIN AVENUE
FRANKFORT, KY 40601