

APPEAL NO. 023233
FILED FEBRUARY 13, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 8, 2002. The hearing officer determined that the appellant (carrier 1) accepted an injury to respondent 2's (claimant) lumbar spine with a date of injury of (date of first injury); that carrier 1 remains liable for the claimant's back injury of (date of first injury); that the claimant sustained an injury to his lumbar spine in the course and scope of his employment on (date of second injury); and that the claimant has disability as a result of the (date of second injury), injury beginning on (date of second injury), and continuing through the date of the CCH. Carrier 1 appeals, requesting that the hearing officer's Decision and Order be reformed to state that carrier 1 is liable for only benefits related to the claimant's (date of first injury), lumbar sprain/strain, a soft tissue injury. There is no response to carrier 1's appeal from either the claimant or from respondent 2 (carrier 2) contained in our file. The determinations that the claimant sustained a compensable injury on (date of second injury), and had disability as a result of that injury have not been appealed.

DECISION

Reversed and remanded.

We agree that the hearing officer's decision is not clear. Carrier 1's appeal requests that we modify the hearing officer's decision to state that it "is liable only for any medical benefits reasonable and necessary and related to the Claimant's (date of first injury) lumbar sprain/strain." One of the issues before the hearing officer was "Does the compensable injury of (date of first injury) include an injury in the form of herniated discs to the low back after (date of second injury)?" The hearing officer, in Finding of Fact No. 7, states "Claimant's injury of (date of first injury) was never diagnosed as a herniated disc but a back strain" and in Conclusion of Law No. 4, the hearing officer states "Carrier-1 remains liable for Claimant's back injury of (date of first injury)." Neither of those determinations answers the question of whether the compensable injury of (date of first injury), includes an injury in the form of a herniated disc after (date of first injury). Consequently, we reverse the hearing officer's decision and order and remand this case for him to answer the issue that was before him.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See

Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of insurance carrier 1 is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

The true corporate name of insurance carrier 2 is **LIBERTY MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

Roy L. Warren
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge