

APPEAL NO. 062394  
FILED JANAURY 18, 2007

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 October 18, 2006. The hearing officer determined that the compensable injury includes the right carpal tunnel syndrome, right cubital tunnel syndrome, cervical spine and lumbar spine but does not include the left arm and bilateral shoulders; that the appellant (claimant) was entitled to change treating doctors; that the employer did not make a bona fide offer of employment to the claimant and thus the respondent (carrier) was not entitled to adjust the post-injury weekly earnings; and that the claimant "has had disability from March 6, 2006, through July 18, 2006, but not thereafter through the date of this hearing." The extent-of-injury issues, change of treating doctor issue and bona fide offer of employment issue have not been appealed and have therefore become final. Section 410.169.

The claimant appeals the disability determination as being "outside the scope of the issue by deciding that [the claimant] did not have disability from July 19, 2006, through the date of the CCH." The carrier responded, asserting that while the carrier "does not waive its right to dispute the period of July 19, 2006, through the date of the [CCH], however, the only period to be addressed was March 6, 2006, through July 18, 2006."

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that on \_\_\_\_\_, the claimant sustained a compensable injury. The evidence was that the claimant fell from a scaffold and sustained multiple injuries. The disability issue reported out of the benefit review conference was; "[d]id the Claimant have disability resulting from an injury sustained on \_\_\_\_\_, and if so, for what period(s)?" At the CCH, at the request of the parties that issue was amended to state; "[d]id the Claimant have disability resulting from an injury sustained on November 21st, 2005 for the period from March 6th, 2006 through July 18th, 2006?" The parties agreed to the amended issue on the record.

Some evidence was presented regarding the claimant's condition for the period after July 18, 2006, including that the claimant had surgery for the compensable injury on July 19, 2006, and that the carrier had paid temporary income benefits beginning July 19, 2006, due to the claimant's surgery for the compensable injury. However, no evidence was presented that the claimant did not have disability after July 18, 2006.

We hold that the hearing officer erred by finding that the claimant did not have disability after July 18, 2006, through the date of the CCH as being both outside of the scope of the issue specifically agreed upon by the parties at the CCH and as not being

supported by the evidence. We affirm the hearing officer's determinations that the claimant had disability from March 6, 2006, through July 18, 2006, as being supported by the evidence. We reverse only that portion of Finding of Fact No. 22, Conclusion of Law No. 6, and the Decision portion of the hearing officer's decision and order that states the claimant did not have disability after July 18, 2006, "through the date of this hearing" by striking the words "but not thereafter, through the date of this hearing" from the cited determinations and render a new decision omitting that phrase from Finding of Fact No. 22, Conclusion of Law No. 6 and the Decision portion of the hearing officer's decision and order. Accordingly, the new decision is that the claimant has had disability from March 6, 2006, through July 18, 2006.

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

**PRENTICE-HALL CORPORATE SYSTEMS, INC.  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Cynthia A. Brown  
Appeals Judge

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Margaret L. Turner  
Appeals Judge