

APPEAL NO. 071942
FILED JANUARY 3, 2008

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing (CCH) was held on October 2, 2007. Respondent 2 (claimant) did not appear at the CCH. The claimant's attorney, the appellant (self-insured), and Respondent 1 (carrier W) appeared at the CCH. The hearing officer states in his decision that the "Claimant did not appear at the hearing and also did not respond to a ten-day letter."

In docket number (Docket No. 1), the issue was "Does the compensable injury of (date of injury for Docket No. 1), extend to include the diagnosed disc protrusions at L4-5 and L5-S1 after (date of injury for Docket No. 2)?" The hearing officer did not make a finding of fact, a conclusion of law, or a decision on the extent-of-injury issue with regard to the compensable injury of (date of injury for Docket No. 1). The self-insured requests a clerical correction because it "believes that the Hearing Officer committed clerical errors in the dates listed" in Finding of Fact No. 6 and Conclusion of Law No. 5 in determining the extent-of-injury issue.

Finding of Fact No. 6. The persuasive medical records do not indicate a direct causal link between Claimant's work activities on **(date of injury for Docket No. 2)** and diagnosed disc protrusions at L4-L5 and L5-S1 after (date of injury for Docket No. 2). (Emphasis added.)

Conclusion of Law No. 5. The (alleged) compensable injury of **(date of injury for Docket No. 2)**, does not extend to include the diagnosed disc protrusions at L4-L5 and L5-S1 after (date of injury for Docket No. 2). (Emphasis added.) (The same language as in Conclusion of Law No. 5 appears in the Decision section).

In the alternative, the self-insured requests that if the Appeals Panel determines that no clerical error was made by the hearing officer, that the extent-of-injury issue be reversed and remanded to the hearing officer to determine whether the compensable injury of (date of injury for Docket No. 1), extends to include the diagnosed disc protrusions at L4-5 and L5-S1 after (date of injury for Docket No. 2). Carrier W responded that it "agrees there should be determinations with regard to [the self-insured's] date of injury" of (date of injury for Docket No. 1). Carrier W notes that the hearing officer incorrectly identified which attorney appeared for which carrier at the CCH. We correct the decision to read that the self-insured appeared and was represented by attorney Ms. C, at the CCH, and carrier W appeared and was represented by Mr. S, adjuster, at the CCH.

In docket number (Docket No. 2), the hearing officer determined that: (1) the claimant did not sustain a compensable injury on (date of injury for Docket No. 2); and (2) the claimant does not have disability as a result of a (date of injury for Docket No. 2),

injury. The hearing officer's decision in Docket No. 2 was not appealed and has become final pursuant to Section 410.169. The appeal file does not contain a response from the claimant.

DECISION

Reversed and remanded.

The parties stipulated that the claimant sustained a compensable injury on (date of injury for Docket No. 1). The claimant's attorney argued that the claimant's compensable injury on (date of injury for Docket No. 1), extends to include the diagnosed disc protrusions at L4-5 and L5-S1 after (date of injury for Docket No. 2), and that the claimant sustained a new injury to his back on (date of injury for Docket No. 2).

The hearing officer failed to make a finding of fact, a conclusion of law, or a decision regarding the extent-of-injury issue for the compensable injury of (date of injury for Docket No. 1), in Docket No. 1. Review of the record reflects that the benefit review conference report references an extent-of-injury issue listing the date of the compensable injury as (date of injury for Docket No. 1), for Docket No. 1. There is no extent-of-injury issue listing the date of the compensable injury as (date of injury for Docket No. 2), for Docket No. 1. We are unable to state that the error complained of on appeal is a clerical error. Accordingly, we reverse the hearing officer's Finding of Fact No. 6 and Conclusion of Law No. 5, and that portion of the decision which determines that "the (alleged) compensable injury of (date of injury for Docket No. 2), does not extend to include the diagnosed disc protrusions at L4-5 and L5-S1 after (date of injury for Docket No. 2)," and we remand this case for the hearing officer to make a determination on the issue of whether the compensable injury of (date of injury for Docket No. 1), extends to include the diagnosed disc protrusions at L4-5 and L5-S1 after (date of injury for Docket No. 2).

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 Department of Insurance, Division of Workers' Compensation, 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 Appeals Panel Decision 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

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

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

Veronica L. Ruberto
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge