

APPEAL NO. 120944
FILED JULY 6, 2012

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). This case returns following our remand in Appeals Panel Decision (APD) 120191, decided March 19, 2012. The original contested case hearing (CCH) was on December 29, 2011, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues on December 29, 2011, by deciding that: (1) the appellant (claimant) had disability from the compensable injury only for the period of time beginning on August 19, 2011, and continuing through September 30, 2011, and for no other time during the period in issue, which began on June 1, 2011, and continued to the date of the CCH; and (2) the claimant's average weekly wage (AWW) is \$218.00. The hearing officer's determination that the claimant's AWW is \$218.00 was not appealed and became final pursuant to Section 410.169.

In APD 120191, *supra*, the case was remanded to the hearing officer to find an ending date of disability supported by the evidence. On remand, the hearing officer determined that the claimant had disability only beginning on August 19, 2011, and continuing through, but ending on December 29, 2011. The claimant appealed, arguing that disability began on June 1, 2011, rather than August 19, 2011, and that the hearing officer erred when he ended disability on December 29, 2011. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed as reformed.

The hearing officer notes in his decision that no further CCH was held on remand and no additional exhibits were admitted into evidence. The hearing officer found that the [date of injury], compensable injury was a cause of the claimant's inability to obtain and retain employment at wages equivalent to her pre-injury wage, only beginning on August 19, 2011, and continuing through the date of the CCH on December 29, 2011. That finding is supported by sufficient evidence and is affirmed. We note that originally the period of disability at issue was from June 1, 2011, through the date of the CCH (December 29, 2011). We also note that in APD 120191, *supra*, we affirmed that portion of the hearing officer's determination that the claimant had disability beginning on August 19, 2011.

However, the hearing officer in his conclusion of law and decision determined that the period of disability ended on December 29, 2011. We reform the hearing officer's conclusion of law and decision to conform with his finding of fact: the claimant

had disability beginning on August 19, 2011, and continuing through the date of the CCH, December 29, 2011. There is no evidence in the record to support a determination that the claimant's disability ended on December 29, 2011; rather, the hearing officer found that the claimant's disability continued through the date of the CCH, December 29, 2011. We note that no determination has been made regarding the claimant's disability after December 29, 2011, as that issue was not before the hearing officer and no evidence was presented regarding disability after December 29, 2011.

We affirm the hearing officer's disability determination as reformed: the claimant had disability beginning on August 19, 2011, and continuing through the date of the CCH, December 29, 2011.

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

**MR. RON O. WRIGHT, PRESIDENT
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723.**

Margaret L. Turner
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Carisa Space-Beam
Appeals Judge