

APPEAL NO. 130458
FILED APRIL 15, 2013

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 January 17, 2013, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the compensable injury of [date of injury], does not extend to internal derangement of the left ankle/foot, left ankle osteochondral defect of the talar dome, chronic lateral left ankle instability, left ankle large fracture fragment in the lateral gutter distal tip of the distal malleolus, attenuated anterior talofibular ligament, attenuated calcaneofibular ligament, tenosynovitis of the tibialis posterior tendon of the left ankle, tenosynovitis of the flexor hallucis longus tendon of the left ankle, tenosynovitis of the peroneal tendons of the left ankle collectively, grade I strain of the peroneus brevis tendon, pain disorder associated with both psychological factors and a general medical condition, and depression; (2) the compensable injury of [date of injury], does extent to left ankle sprain/strain and left ankle tenosynovitis; (3) the appellant (claimant) reached maximum medical improvement (MMI) on June 4, 2011; and (4) the claimant has a zero impairment rating (IR). The claimant appealed, disputing the hearing officer's extent-of-injury determination that was adverse to him, and also disputed the MMI and IR determinations. The respondent (self-insured) responded, urging affirmance.

DECISION

Reversed and remanded for reconstruction of the record.

Section 410.203(a)(1) provides that the Appeals Panel shall consider the record developed at the CCH. The appeal file contains one compact disc (CD). The CD is approximately three seconds long. The appeal file does not indicate that a court reporter was present and the file does not contain a transcript or other recording. Consequently, we remand the case for reconstruction of the CCH record.

We do note that the hearing officer's findings of fact contain two Findings of Fact No. 5. In reconstruction of the record the numbering of the findings of fact should be corrected.

We also note that in Finding of Fact No. 3 and Conclusion of Law No. 3 the hearing officer determined that the compensable injury did not extend to "internal derangement of the left ankle/foot" but in the Decision portion of the decision and order, the hearing officer states that the compensable injury does extend to "internal derangement of the left ankle/foot" and the Decision omits the determination that the

compensable injury extends to “left ankle sprain/strain and left ankle tenosynovitis.” In the reconstruction of the record those errors should be corrected.

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 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **[a certified self-insured]** and the name and address of its registered agent for service of process is

**[NAME]
[ADDRESS]
[CITY, TEXAS ZIP].**

Thomas L. Knapp
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge