

APPEAL NO. 141154
FILED AUGUST 8, 2014

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 16, 2014, in San Angelo, Texas, with [hearing officer] presiding as hearing officer. The hearing officer determined that: (1) at the time of the respondent's (claimant) injury on [date of injury], the claimant was the general employee of (GC) and was the borrowed employee of (H); and (2) the claimant sustained a compensable injury on [date of injury].

The appellant (carrier) appeals the hearing officer's determinations contending that the hearing officer erred in determining that the claimant was a borrowed employee of H. The carrier contends that the Equipment Lease Agreement dated June 8, 2012, governs the relationship between GC and H wherein GC assumed the responsibilities of an employer and therefore the claimant is not an employee of H. The appeal file does not contain a response from the claimant nor from GC.

DECISION

Reversed and remanded.

It is undisputed that on [date of injury], the claimant was in a motor vehicle accident when he was driving a truck owned by GC which was leased to H. The parties stipulated that on the date of injury, [date of injury]: H provided workers' compensation insurance with Old Republic General Insurance Corporation, carrier; and GC, did not have workers' compensation insurance. In evidence is an Equipment Lease Agreement dated June 8, 2012, which indicates that GC, as owner-operator, leased equipment to H, and GC agreed to provide transportation services to H, as a motor carrier.

The issue in dispute, as revised by agreement of the parties, is "[w]ho was the claimant's employer on [date of injury], for purposes of the Texas Workers' Compensation Act?" See Section 406.121, which defines "owner-operator," "motor carrier," and "transportation services." See also Section 406.122, Status of Employee, and 28 TEX. ADMIN. CODE § 112.102 (Rule 112.102), Agreements between Motor Carriers and Owner Operators. Section 401.011(18) states in part that "Employer" means, unless otherwise specified, a person who makes a contract of hire, employs one or more employees, and has workers' compensation insurance coverage.

The hearing officer made a conclusion of law and decision that "[a]t the time of [the] [c]laimant's injury on [date of injury][the] [c]laimant was the general employee of [GC] and was the borrowed employee of [H]." As previously mentioned above, the issue agreed to by the parties was "[w]ho was [the] [c]laimant's employer on [date of injury], for purposes of the Texas Workers' Compensation Act?" The hearing officer's decision identifies the claimant as a general employee of GC and a borrowed employee of H on [date of injury]; however, the hearing officer's decision fails to determine the identity of the claimant's employer on the date of injury, [date of injury], for purposes of the Texas Workers' Compensation Act. The hearing officer's decision is incomplete because it fails to completely address the issue as amended upon agreement of the parties and litigated by the parties.

Accordingly, we reverse the hearing officer's determination that at the time of the claimant's injury on [date of injury], the claimant was the general employee of GC and was the borrowed employee of H as being incomplete, and we remand this case to the hearing officer to determine the issue of who was the claimant's employer on [date of injury], for purposes of the Texas Workers' Compensation Act. No additional evidence is required.

The hearing officer also determined that the claimant sustained a compensable injury on [date of injury]. However, given that we have reversed and remanded the

issue of who was the claimant's employer on [date of injury], for purposes of the Texas Workers' Compensation Act, we must also reverse the hearing officer's determination that the claimant sustained a compensable injury on [date of injury], and remand that issue to the hearing officer. No additional evidence is required.

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 **OLD REPUBLIC GENERAL INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3218.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge