

APPEAL NO. 142156
FILED DECEMBER 5, 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 September 3, 2014, in Fort Worth, Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the appellant/cross-respondent (claimant) did not sustain a compensable mental trauma injury on [Date of Injury]; (2) the claimant did not fail to notify her employer of her claimed mental trauma injury within 30 days after its occurrence; and (3) the claimant did not have disability as a result of a compensable injury beginning on December 17, 2013, and continuing through February 28, 2014, as a result of a compensable mental trauma injury.

The claimant appealed the hearing officer's determinations that she did not sustain a compensable mental trauma injury on [Date of Injury], and that she did not have disability beginning on December 17, 2013, and continuing through February 28, 2014, as a result of a compensable mental trauma injury. The claimant contends that the evidence established she had sustained a compensable mental trauma injury and that she had disability for the claimed period. The respondent/cross-appellant (self-insured) responded, urging affirmance of those determinations. The self-insured also appealed the hearing officer's determination that the claimant did not fail to notify her employer of her claimed mental trauma injury within 30 days after its occurrence. The self-insured contended that the evidence established the claimant failed to timely notify her employer of an alleged mental trauma injury.

DECISION

Affirmed in part and reversed and remanded in part.

The claimant testified that she sustained a compensable mental trauma injury on [Date of Injury], when she was subjected to a disciplinary hearing involving an alleged improper use of State property for personal reasons. The claimant testified that the employer accused her of violating its policy when she used the employer's computer for personal reasons. The claimant also testified that her use of the computer did not violate the employer's policy.

MENTAL TRUAMA INJURY AND DISABILITY

The hearing officer's determinations that the claimant did not sustain a compensable mental trauma injury on [Date of Injury], and that the claimant did not

have disability as a result of a compensable injury beginning on December 17, 2013, and continuing through February 28, 2014, as a result of a compensable mental trauma injury are supported by sufficient evidence and are affirmed.

TIMELY NOTICE TO EMPLOYER

Section 410.168 provides that a hearing officer's decision contain findings of fact and conclusions of law, a determination of whether benefits are due, and an award of benefits due. 28 TEX. ADMIN. CODE § 142.16 (Rule 142.16) provides that a hearing officer's decision shall be in writing and include findings of fact, conclusions of law, and a determination of whether benefits are due and if so, an award of benefits due.

The hearing officer states in the Decision portion of the decision and order that the claimant did not fail to notify her employer of her claimed mental trauma injury within 30 days after its occurrence. However, the hearing officer did not make any findings of fact or conclusions of law as to whether the self-insured is relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001, which was an issue properly before the hearing officer. Because the hearing officer's decision contains no findings of fact or conclusions of law regarding the issue of whether the self-insured is relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001, it does not comply with Section 410.168 and Rule 142.16. See *also* Appeals Panel Decision (APD) 132339, decided December 12, 2013. We therefore reverse the hearing officer's determination that the claimant did not fail to notify her employer of her claimed mental trauma injury within 30 days after its occurrence as being incomplete, and we remand the issue of whether the self-insured is relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001 for the hearing officer to make findings of fact and conclusions of law regarding this issue.

SUMMARY

We affirm the hearing officer's determination that the claimant did not sustain a compensable mental trauma injury on [Date of Injury].

We affirm the hearing officer's determination that the claimant did not have disability as a result of a compensable injury beginning on December 17, 2013, and continuing through February 28, 2014, as a result of a compensable mental trauma injury.

We reverse the hearing officer's determination that the claimant did not fail to notify her employer of her claimed mental trauma injury within 30 days after its

occurrence as being incomplete, and we remand the issue of whether the self-insured is relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001 for further action consistent with this decision

REMAND INSTRUCTIONS

On remand the hearing officer is to make findings of fact and corresponding conclusions of law and a decision regarding whether the self-insured is relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001. No new evidence is to be taken.

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 APD 060721, decided June 12, 2006.

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:

**STEPHEN S. VOLLBRECHT
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET, 6TH FLOOR
AUSTIN, TEXAS 78701**

For service by mail the address is:

**STEPHEN S. VOLLBRECHT
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Margaret L. Turner
Appeals Judge