

APPEAL NO. 150402  
FILED APRIL 28, 2015

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 27, 2015,<sup>1</sup> in San Antonio, Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on [Date of Injury], and that the claimant had disability beginning on November 4, 2014, and continuing through the date of the CCH.<sup>2</sup>

The appellant (carrier) appealed both of the hearing officer's determinations. The carrier contended that the evidence does not support the hearing officer's determinations. The appeal file does not contain a response from the claimant.

**DECISION**

Affirmed in part and reversed and remanded in part.

The claimant testified that he injured his right hand while shredding chicken on an assembly line on [Date of Injury].

**COMPENSABILITY**

The hearing officer's determination that the claimant sustained a compensable injury on [Date of Injury], is supported by sufficient evidence and is affirmed.

**DISABILITY**

The hearing officer determined that the claimant had disability beginning on November 4, 2014, and continuing through the date of the CCH. In the Discussion portion of the decision, the hearing officer noted that "[n]o doctor has returned [the] [c]laimant to full duty work."

However, in evidence are two Work Status Reports (DWC-73) from (Dr. RC), the claimant's treating doctor. In the first DWC-73, which is dated November 4, 2014, Dr. RC released the claimant to return to work as of November 4, 2014, without restrictions. In an attached office note dated November 4, 2014, (Dr. S) noted that he was releasing the claimant from care, and that the claimant was to return to full work without

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<sup>1</sup> We note that the decision does not state the date of the CCH.

<sup>2</sup> We note that the decision does not contain the entire zip code for the carrier's registered agent for service of process.

restrictions as of November 4, 2014. In the second DWC-73, which is dated November 6, 2014, Dr. RC again released the claimant to return to work as of November 4, 2014, without restrictions.

Although the hearing officer in this case could accept or reject in whole, or in part, the opinion of Dr. RC, Dr. S, or any other evidence, the hearing officer misread the evidence regarding a doctor's release to return to work full duty without restrictions. Accordingly, we reverse the hearing officer's determination that the claimant had disability beginning on November 4, 2014, and continuing through the date of the CCH, and we remand the disability issue to the hearing officer for further action consistent with this decision.

### **SUMMARY**

We affirm the hearing officer's determination that the claimant sustained a compensable injury on [Date of Injury].

We reverse the hearing officer's determination that the claimant had disability beginning on November 4, 2014, and continuing through the date of the CCH, and we remand the issue of whether the claimant had disability beginning on November 4, 2014, through the CCH, to the hearing officer for further action consistent with this decision.

### **REMAND INSTRUCTIONS**

On remand the hearing officer is to fully consider Dr. RC's November 4 and November 6, 2014, DWC-73s, as well as Dr. S's November 4, 2014, office note, and to give those reports proper weight in making his disability determination. The hearing officer is then to make a determination whether the claimant has disability from November 4, 2014, through the CCH.

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 **ACE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
1999 BRYAN STREET, SUITE 900  
DALLAS, TEXAS 75201-3136.**

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Carisa Space-Beam  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Margaret L. Turner  
Appeals Judge