

APPEAL NO. 150720
FILED JUNE 15, 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 March 9, 2015, in Austin, Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the appellant (claimant) did not sustain a compensable injury on (date of injury); (2) the claimed injury occurred while the claimant was in a state of intoxication, as defined in Section 401.013, thereby relieving the respondent (carrier) of liability for compensation; (3) the carrier specifically contested compensability on the issue of compensability pursuant to Section 409.022 and 28 TEX. ADMIN. CODE § 124.2(f) (Rule 124.2(f)); and (4) the claimed injury occurred while the claimant was in a state of intoxication, thereby relieving the carrier of liability for compensation.

The claimant appealed, disputing the hearing officer's determinations of compensability, carrier waiver, and intoxication for both alcohol and drug. The claimant contends that the hearing officer's determinations are against the great weight of the evidence. The carrier responded, urging affirmance of the disputed determinations.

DECISION

Affirmed as reformed.

Section 410.203(b) was amended effective September 1, 2011, to allow the Appeals Panel to affirm the decision of a hearing officer as prescribed in Section 410.204(a-1). Section 410.204(a) provides, in part, that the Appeals Panel may issue a written decision on an affirmed case as described in subsection (a-1). Subsection (a-1) provides that the Appeals Panel may only issue a written decision in a case in which the panel affirms the decision of a hearing officer if the case: (1) is a case of first impression; (2) involves a recent change in law; or (3) involves errors at the CCH that require correction but do not affect the outcome of the hearing. This case is a situation that requires correction but does not affect the outcome of the hearing.

The hearing officer's determinations that: (1) the claimant did not sustain a compensable injury on (date of injury); (2) the claimed injury occurred while the claimant was in a state of intoxication, as defined in Section 401.013, thereby relieving the carrier of liability for compensation; (3) the carrier specifically contested compensability on the issue of compensability pursuant to Section 409.022 and Rule 124.2(f); and (4) the claimed injury occurred while the claimant was in a state of intoxication, thereby

relieving the carrier of liability for compensation are supported by sufficient evidence and are affirmed.

In Finding of Fact No. 4, the hearing officer found that the carrier disputed the claim by filing a Notice of Denial of Compensability/Liability and Refusal to Pay Benefits (PLN-1) with the Texas Department of Insurance, Division of Workers' Compensation (Division) on January 2, 2014, denying the claim in its entirety and offering the affirmative defenses of alcohol and drug intoxication. However, a review of the record reflects that the carrier filed its PLN-1 on June 25, 2013, rather than January 2, 2014, as found by the hearing officer. We reform Finding of Fact No. 4 to reflect the date the carrier disputed the claim by filing a PLN-1 with the Division on June 25, 2013, to conform to the evidence.

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

**RICHARD J. GERGASKO, PRESIDENT
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723.**

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Carisa Space-Beam
Appeals Judge