

APPEAL NO. 160439
FILED MAY 24, 2016

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 February 8, 2016, in Houston, Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issue by deciding that: (1) the (date of injury), compensable injury extends to thoracic sprain/strain, right hand hairline fracture of the middle phalangeal head of the fifth finger, fifth metacarpal neck of the right hand, and post-concussion syndrome; and (2) the (date of injury), compensable injury does not extend to aggravation of the C5, C6, and C7 left sided radiculopathy, C4-5, C5-6, and C6-7 degenerative disc disease, L4, L5, and S1 radiculitis, L4-5, L5-S1 spondylosis and osteoarthritis, brachial neuritis/radiculitis, and post-traumatic stress disorder and depression. We note the hearing officer's decision contains typographical errors regarding the name of the carrier's registered agent for service of process.

The appellant/cross-respondent (claimant) appealed that portion of the hearing officer's extent-of-injury determination that was adverse to her, contending that the evidence established the compensable injury extends to the disputed conditions. The respondent/cross-appellant (carrier) responded, urging affirmance of that portion of the hearing officer's determination. The carrier cross-appealed that portion of the hearing officer's extent-of-injury determination that was adverse to it based on sufficiency of the evidence. The carrier also contends that the hearing officer failed to make a decision regarding one of the disputed conditions before her to determine.

DECISION

Affirmed in part and reversed and remanded in part.

The parties stipulated that the claimant sustained a compensable injury on (date of injury), at least in the form of a right hand sprain/strain, right hand contusion, left facial contusion/abrasion, left arm contusion, left side abrasion/contusion, lumbar strain, and cervical strain. The claimant testified she was injured when she slipped and fell while cleaning a restroom.

That portion of the hearing officer's determination that the (date of injury), compensable injury does not extend to aggravation of the C5, C6, and C7 left sided radiculopathy, C4-5, C5-6, and C6-7 degenerative disc disease, L4, L5, and S1 radiculitis, L4-5, L5-S1 spondylosis and osteoarthritis, brachial neuritis/radiculitis, and post-traumatic stress disorder and depression is supported by sufficient evidence and is affirmed.

That portion of the hearing officer's determination that the (date of injury), compensable injury extends to thoracic sprain/strain, right hand hairline fracture of the middle phalangeal head of the fifth finger, fifth metacarpal neck of the right hand, and post-concussion syndrome is supported by sufficient evidence and is affirmed.

The extent-of-injury issue before the hearing officer as contained in the Benefit Review Conference Report and as agreed to by the parties at the CCH was the following:

Does the compensable injury of (date of injury), extend to and include an aggravation of the C5, C6, and C7 left sided radiculopathy, **C4-5, C5-6, and C6-7 disc bulge with stenosis** (emphasis added), C4-5, C5-6, and C6-7 degenerative disc disease, L4, L5, and S1 radiculitis, L4-5, L5-S1 spondylosis and osteoarthritis, thoracic sprain/strain, brachial neuritis/radiculitis, right hand hairline fracture of the middle phalangeal head of the fifth finger, fifth metacarpal neck of the right hand, post-concussion syndrome, post-traumatic stress disorder, and depression?

Issue Statement 1 does not list the disputed conditions of C4-5, C5-6, and C6-7 disc bulge with stenosis, and the hearing officer made no findings of fact, conclusions of law, or a decision regarding those disputed conditions, which were conditions properly before the hearing officer to determine. We therefore reverse the hearing officer's decision as incomplete, and we remand the issue of whether the (date of injury), compensable injury extends to C4-5, C5-6, and C6-7 disc bugle with stenosis.

SUMMARY

We affirm that portion of the hearing officer's determination that the (date of injury), compensable injury does not extend to aggravation of the C5, C6, and C7 left sided radiculopathy, C4-5, C5-6, and C6-7 degenerative disc disease, L4, L5, and S1 radiculitis, L4-5, L5-S1 spondylosis and osteoarthritis, brachial neuritis/radiculitis, and post-traumatic stress disorder and depression.

We affirm that portion of the hearing officer's determination that the (date of injury), compensable injury extends to thoracic sprain/strain, right hand hairline fracture of the middle phalangeal head of the fifth finger, fifth metacarpal neck of the right hand, and post-concussion syndrome.

We reverse the hearing officer's decision as incomplete and we remand the issue of whether the (date of injury), compensable injury extends to C4-5, C5-6, and C6-7 disc bugle with stenosis.

REMAND INSTRUCTIONS

On remand the hearing officer is to make findings of fact, conclusions of law, and a determination as to whether the (date of injury), compensable injury extends to C4-5, C5-6, and C6-7 disc bugle with stenosis. No new evidence is to be taken on remand.

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 **TRAVELERS CASUALTY & SURETY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
d/b/a CSC-LAWYERS INCORPORATING SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3218.**

Carisa Space-Beam
Appeals Judge

CONCUR:

K. Eugene Kraft
Appeals Judge

Margaret L. Turner
Appeals Judge