

APPEAL NO. 131790
FILED OCTOBER 3, 2013

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing (CCH) was held on June 20, 2013, in [City], Texas, with [hearing officer] presiding as hearing officer. With regard to [Docket No. 1], the hearing officer resolved the dispute issue by deciding that the compensable injury of [date of injury No. 1], extends to right epicondylitis and right carpal tunnel syndrome (CTS). The hearing officer's extent-of-injury determination in Docket No. 1 was not appealed and has become final pursuant to Section 410.169.

With regard to [Docket No. 2], the issues in dispute for a claimed injury on [date of injury No. 2], were: (1) Did the respondent (claimant) sustain a compensable repetitive trauma injury; (2) What is the date of injury; and (3) Is the appellant (carrier) relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001. The hearing officer stated in his decision that the issues in Docket No. 2 were withdrawn by agreement of the parties during closing argument. The carrier appealed, contending that the hearing officer erred in withdrawing the issues in Docket No. 2 because the parties did not agree to withdraw the issues, and that the carrier had agreed that the claimant did not have a [date of injury No. 2] right repetitive trauma injury. The appeal file does not contain a response from the claimant.

DECISION

Reversed and remanded.

Section 401.011(3) provides in part that an "Agreement" means the resolution by the parties to a dispute under this subtitle of one or more issues regarding an injury, death, coverage, compensability, or compensation. 28 TEX. ADMIN. CODE § 147.4(c) (Rule 147.4(c)) provides in part that an oral agreement reached during a CCH and preserved in the record is effective and binding on the date made.

The hearing officer states in his decision that the issues for Docket No. 2 were withdrawn by agreement of the parties during closing argument. Review of the record shows that at the CCH the claimant was claiming right epicondylitis and right CTS conditions to be part of the compensable injury of [date of injury No. 1] (Docket No. 1), and not claiming a new injury of [date of injury No. 2] (Docket No. 2). The claimant's ombudsman stated in closing argument that the injury of [date of injury No. 2], did not exist. The carrier agreed with the claimant's position and stated in closing argument that it agreed to accept that the claimant did not have a [date of injury No. 2], right

repetitive trauma injury. Review of the record does not indicate that the parties agreed to withdraw the issues in Docket No. 2. The hearing officer did not make determinations on the issues in Docket No. 2. Accordingly, we reverse the hearing officer's decision in Docket No. 2 as incomplete, and remand for the hearing officer to make determinations on the disputed issues in Docket No. 2, based on the evidence presented at the CCH held on June 20, 2013.

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 **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge