

APPEAL NO. 210249  
FILED MARCH 31, 2021

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 21, 2021, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issue by deciding that the compensable injury of (date of injury), does not extend to lumbar disc herniations at L4-5 and L5-S1 and lumbar radiculopathy.

The appellant (claimant) appealed, disputing the ALJ's determination of extent of injury. The respondent (carrier) responded, urging affirmance of the extent-of-injury determination.

DECISION

Reversed and remanded.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), and the carrier has accepted the conditions of a lumbar strain, thoracic strain, left knee strain, left knee medial meniscus tear, and left knee lateral complex meniscus tear as compensable. The claimant, a commercial installer, testified that he was injured on (date of injury), when a header beam that weighed between 500 to 800 lbs. fell on him as he was moving into position in a manlift in order to weld the beam.

A review of the record indicates that at the beginning of the CCH, the ALJ stated that the carrier had withdrawn its Exhibit CR-L, and therefore, only admitted Carrier Exhibits CR-A through CR-K and CR-M. Carrier Exhibit CR-L is a peer review report from (Dr. C). Although Dr. C's peer review report was not admitted into evidence, the ALJ discussed the report in detail in her decision and order. Additionally, the ALJ stated, "[t]he preponderance of the medical evidence supports the opinions of [Dr. K] and [Dr. C], and were persuasive to show that lumbar disc herniations at L4-5 and L5-S1 and lumbar radiculopathy were not caused, enhanced, accelerated, or worsened by the (date of injury), work injury event." Because the ALJ based her opinion, in part, on a report from a medical expert that is not in evidence, we reverse the ALJ's determination that the compensable injury of (date of injury), does not extend to lumbar disc herniations at L4-5 and L5-S1 and lumbar radiculopathy and remand the extent-of-injury issue back to the ALJ for further action consistent with this decision. See Appeals Panel Decision (APD) 181947, decided October 4, 2018.

**REMAND INSTRUCTIONS**

On remand the ALJ is to decide the disputed extent-of-injury issue based on the documentary evidence and testimony admitted at 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 ALJ, 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 **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RICHARD GERGASKO, PRESIDENT  
2200 ALDRICH ST.  
AUSTIN, TEXAS 78723.**

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Cristina Beceiro  
Appeals Judge

CONCUR:

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Carisa Space-Beam  
Appeals Judge

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Margaret L. Turner  
Appeals Judge