

APPEAL NO. 210292
FILED APRIL 21, 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 was held on September 14, 2020, with the record closing on January 11, 2021, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) the compensable injury sustained on (date of injury), does not extend to left subacromial compression, left shoulder impingement, left rotator cuff impingement, left supraspinatus high grade partial tear, left inferior lateral acromial spur, left possible bicep tendon tear at groove, left infraspinatus tendinosis with low grade fissuring, and left shoulder sprain; and (2) (Dr. K) was improperly appointed as the designated doctor in accordance with Section 408.0041 and 28 TEX. ADMIN. CODE § 127.1 (Rule 127.1). The claimant (appellant) appealed, disputing the ALJ's determinations of extent of injury. The respondent (carrier) responded, urging affirmance of the disputed extent-of-injury conditions. The ALJ's determination that Dr. K was improperly appointed as a designated doctor in accordance with Section 408.0041 and Rule 127.1 was not appealed and has become final pursuant to Section 410.169.

DECISION

Reversed and remanded.

The parties stipulated, in part, that on (date of injury), the claimant sustained a compensable injury and that the accepted compensable injury is distal clavicle osteolysis, left shoulder strain, left acromioclavicular joint condition, and left bicep impingement. The claimant testified he felt a pop in his left shoulder while pulling "pyramid" pieces out of a "jig." We note the decision and order contains a typographical error regarding the registered agent's name.

The ALJ's decision and order states, in part, that the following exhibits were admitted into evidence: claimant's Exhibits 1 through 33 noting that there was no exhibit 31 or 32. There are numerous discrepancies between the pages of the exhibits listed on the claimant's exhibit sheet and the pages contained in the appeal file. Some of the following discrepancies include but are not limited to: exhibit number 1 lists 35 pages as "List and Covers" but the 35 pages were not included; exhibit "A2" lists 219 pages but only 189 pages were included in the appeal file; exhibit 9 lists 106 pages but only 45 pages were included in the appeal file; exhibit 11 lists 93 pages but only 25 pages were included in the appeal file. Additionally, exhibit 14 lists 55 pages but only 41 pages were included in the appeal file; exhibit 17 lists 216 pages but only 192 pages were included in the appeal file; and exhibit 18 lists 292 pages but only 143 pages were

included in the appeal file. There were numerous other discrepancies between the exhibit list and the documents contained in the appeal file. Because the record is incomplete, it must be remanded for the addition or reconstruction of the missing exhibits. See Appeals Panel Decision (APD) 030543, decided April 18, 2003. On remand, the ALJ should ensure that the exhibits offered into evidence correspond to the number of pages listed as offered on the exhibit list for each individual exhibit.

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 **SUNZ INSURANCE 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.

Margaret L. Turner
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Carisa Space-Beam
Appeals Judge