

APPEAL NO. 210679
FILED JULY 7, 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 March 8, 2021, with the record closing on March 29, 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 of (date of injury), does not extend to a right knee sprain/strain, right knee abrasion, right knee laceration, staphylococcus aureus, septic arthritis of the right knee, cellulitis of the right knee, staphylococcal sepsis/septicemia of the right leg, right leg lymphedema, methicillin-susceptible staphylococcus aureus (MSSA) of the right leg, total right knee arthroplasty, or above the knee amputation of the right leg; (2) the appellant (claimant) reached maximum medical improvement (MMI) on November 11, 2019; (3) the claimant's impairment rating (IR) is four percent; (4) the claimant had disability from January 12, 2018, through October 10, 2019, as a result of the compensable injury of (date of injury); and (5) the claimant did not have disability from October 11, 2019, through the date of the CCH as a result of the compensable injury of (date of injury).

The claimant appealed the ALJ's extent of injury, MMI, and IR determinations as well as the ALJ's disability determination that was adverse to him. The respondent (self-insured) responded, urging affirmance of the ALJ's determinations. The ALJ's determination that the claimant had disability from January 12, 2018, through October 10, 2019, was not appealed and has become final pursuant to Section 410.169.

DECISION

Reversed and remanded.

The parties stipulated at the CCH, in part, that the claimant sustained a compensable injury on (date of injury), in the form of a closed head injury without loss of consciousness and a right wrist sprain; the date of statutory MMI is January 17, 2020; on (date of injury), the claimant was the employee of (employer), employer; and the Texas Department of Insurance, Division of Workers' Compensation (Division) appointed (Dr. K) as the designated doctor to address extent of injury, MMI, IR, and disability. We note that the stipulation contained in Finding of Fact No. 1.B. identifies the employer as (employer) and omits LLC, and the stipulation contained in Finding of Fact No. 1.E. does not indicate that Dr. K was appointed to opine on disability. The claimant testified he was injured on (date of injury), when the security doors through which he had just entered the employer's building were blown into him by strong wind and knocked him to the ground.

As a condition of being issued a certificate of authority to engage in the business of insurance in Texas, alien or foreign insurance companies are required to appoint a person in Texas as agent for service of process on whom any process to be served on the company may be served. See Texas Insurance Code Section 804.103(b); also, Texas Labor Code Sections 401.011(28) and 410.204(d). The carrier is required to provide both a name and a physical address of a registered agent for service of process in Texas. See *generally* Appeals Panel Decision (APD) 011845-s, decided September 11, 2001; APD 180107, decided February 20, 2018; APD 182682, decided January 28, 2019. See *also* Section 410.164(c).

In this case the self-insured provided the name and address of a registered agent in the state of (state); however, it failed to provide a name of a registered agent for service of process in Texas. Accordingly, we remand this case to the ALJ to request from the self-insured the required information for its registered agent in Texas as provided in Section 410.164(c). We note that the information provided by the self-insured identifies the true corporate name of the self-insured as (employer) Company and not (employer) as specified at the CCH.

SUMMARY

We remand this case to the ALJ to obtain compliance with Section 410.164(c) by determining the proper name and address of the registered agent for service of process for the self-insured, as well as the self-insured's correct true corporate name.

We reverse the ALJ's determination that the compensable injury of (date of injury), does not extend to a right knee sprain/strain, right knee abrasion, right knee laceration, staphylococcus aureus, septic arthritis of the right knee, cellulitis of the right knee, staphylococcal sepsis/septicemia of the right leg, right leg lymphedema, MSSA of the right leg, total right knee arthroplasty, or above the knee amputation of the right leg, and we remand the issue of whether the compensable injury of (date of injury), extends to those conditions to the ALJ for further action consistent with this decision.

We reverse the ALJ's determination that the claimant reached MMI on November 11, 2019, and we remand the issue of MMI to the ALJ for further action consistent with this decision.

We reverse the ALJ's determination that the claimant's IR is four percent, and we remand the issue of IR to the ALJ for further action consistent with this decision.

We reverse the ALJ's determination that the claimant did not have disability from October 11, 2019, through the date of the CCH as a result of the compensable injury of (date of injury), and we remand the issue of whether the claimant had disability from

October 11, 2019, through the date of the CCH to the ALJ for further action consistent with this decision.

REMAND INSTRUCTIONS

On remand, the ALJ shall take official notice of the Division records regarding the self-insured and request from the self-insured the required information for its registered agent in Texas as required in Section 410.164(c).

After the ALJ determines the proper name and address of the registered agent for service of process for the self-insured, the ALJ is to make determinations on the extent of injury, MMI, IR, and disability issues consistent with this decision and supported by the evidence.

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 Division, 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.

Carisa Space-Beam
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Margaret L. Turner

Appeals Judge