

APPEAL NO. 211085
FILED AUGUST 25, 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 May 18, 2021, with the record closing on May 28, 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 appellant (claimant) did not sustain a compensable mental trauma injury on (date of injury); and (2) the claimant did not have disability from (date of injury), through the date of the CCH, resulting from the claimed mental trauma injury of (date of injury). The claimant appeals the ALJ's determination that she did not sustain a compensable mental trauma injury on (date of injury), and that she did not have disability. The respondent (self-insured) responded, urging affirmance of the disputed issues.

DECISION

Affirmed in part and reversed and rendered in part by striking.

The claimant testified that she sustained a mental trauma injury on (date of injury), when she was sent to work at an inmate facility that had a COVID-19 outbreak and no air conditioning. The claimant testified that she had several comorbidities including asthma, obesity, and high blood pressure.

The ALJ is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence. *Texas Employers Insurance Association v. Campos*, 666 S.W.2d 286 (Tex. App.—Houston [14th Dist.] 1984, no writ). As an appellate reviewing tribunal, the Appeals Panel will not disturb challenged factual findings of an ALJ absent legal error unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986); *In re King's Estate*, 150 Tex. 662, 244 S.W.2d 660 (1951).

MENTAL TRAUMA INJURY

The ALJ's determination that the claimant did not sustain a compensable mental trauma injury on (date of injury), is supported by sufficient evidence and is affirmed.

DISABILITY

The disability issue reported out of the benefit review conference was as follows: “[d]id the [c]laimant sustain disability as a result of the claimed injury, and if so, for what period?” During the opening argument, the claimant's attorney stated that the claimant

was claiming disability beginning (day after the date of injury), through March 31, 2021. The ALJ asked the parties if they agreed to amend the disability issue to reflect the period of (day after the date of injury), through March 31, 2021, and both parties stated that they agreed to amend the disputed period of disability. The ALJ stated on the record that the disability issue would be amended as agreed to by the parties. However, the ALJ failed to amend the disability issue in the Decision and Order. The claimant appealed the ALJ's determination that she did not have disability from (date of injury), through the date of the CCH.

The ALJ failed to modify the disability issue as agreed to by the parties. Accordingly, we reform the ALJ's decision to reflect that the only period of disability at issue before the ALJ was (day after the date of injury), through March 31, 2021. We reverse that portion of the ALJ's determination that the claimant did not have disability on (date of injury), and from April 1, 2021, through the date of the CCH as exceeding the scope of the amended issue before him. We strike that portion of the ALJ's determination that the claimant did not have disability on (date of injury), and from April 1, 2021, through the date of the CCH. That portion of the ALJ's determination that the claimant did not have disability from (day after the date of injury), through March 31, 2021, is supported by sufficient evidence and is affirmed.

SUMMARY

We affirm the ALJ's determination that the claimant did not sustain a compensable mental trauma injury on (date of injury).

We affirm that portion of the ALJ's determination that the claimant did not have disability from (day after the date of injury), through March 31, 2021.

We reverse that portion of the ALJ's determination that the claimant did not have disability on (date of injury), and from April 1, 2021, through the date of the CCH, as exceeding the scope of the amended issue before him. We strike that portion of the ALJ's determination that the claimant did not have disability on (date of injury), and from April 1, 2021, through the date of the CCH.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**NAME
ADDRESS
CITY, TEXAS ZIP CODE.**

Margaret L. Turner
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Carisa Space-Beam
Appeals Judge