

APPEAL NO. 211389
FILED OCTOBER 27, 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 July 12, 2021, with the record closing on July 22, 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 the right shoulder labrum tear, right shoulder partial rotator cuff tear, or lumbar degeneration; (2) the first certification of maximum medical improvement (MMI) and assigned impairment rating (IR) from (Dr. L) on March 12, 2019, became final under Section 410.123 and 28 Tex. Admin. Code § 130.12 (Rule 130.12); (3) the appellant (claimant) reached MMI on March 12, 2019; and (4) the claimant does not have any permanent impairment. The claimant appealed, disputing the ALJ's determinations of extent of injury, MMI, IR, and finality. The respondent (carrier) responded, urging affirmance of the disputed determinations.

DECISION

Reversed and remanded for reconstruction of the record.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), in the form of a lumbar strain and right shoulder strain and (Dr. K) was appointed by the Texas Department of Insurance, Division of Workers' Compensation (Division) as the designated doctor to address the issues of extent of injury, MMI, and IR. The claimant testified that he was injured on (date of injury), when he was lifting brick planters.

The ALJ's decision states that carrier's exhibits A through T were admitted into evidence. The decision and order notes some discrepancies in the carrier's exhibits were corrected. However, further errors in the carrier's exhibits were found after review. The carrier's exhibit list states that exhibit D contains 3 pages; however, the file forwarded to us only contains 2 pages, with page 1 missing. The carrier's exhibit list states that exhibit F contains 7 pages; however, the file forwarded to us only contains 6 pages, with page 3 missing. The carrier's exhibit list states that exhibit M contains 11 pages; however, the file forwarded to us only contains 10 pages, with page 11 missing. The carrier's exhibit list states that exhibit O contains 13 pages; however, the file forwarded to us only contains 12 pages, with page 13 missing. 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.

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.

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

**RICHARD J. GERGASKO
2200 ALDRICH STREET
AUSTIN, TEXAS 78723.**

Margaret L. Turner
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Carisa Space-Beam
Appeals Judge