

APPEAL NO. 211953
FILED JANUARY 21, 2022

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 October 13, 2021, with the record closing on October 25, 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 appellant (claimant) did not sustain a compensable mental trauma injury on (date of injury). The claimant appealed the ALJ's determination. Respondent 1 (self-insured) responded, urging affirmance of the ALJ's determination. There was no response in the appeal file from respondent 2 (subclaimant).

DECISION

Affirmed as clarified.

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).

COMPENSABLE INJURY

The claimant testified that she worked as a police detective for the employer and specialized in crimes against children cases. She stated that on August 5, 2020, she was transferred from that role to patrol duty on the night shift. She further testified that on (date of injury), as she was preparing to report for work, she became distressed about being stripped away from her cases and not being able to contact the victims in her cases. She then fell off her bed and passed out. The claimant was eventually diagnosed with depression, anxiety, and post-traumatic stress disorder (PTSD).

The ALJ stated in her decision that:

The Appeals Panel (AP) has established that mental trauma can produce a compensable injury if it arises in the course and scope of employment and is traceable to a definite time, place, and cause. The AP has also found that, while a specific stressful incident of sufficient magnitude

occurring on the job can result in a compensable mental trauma injury, repetitive mentally traumatic activity or stressful events do not constitute a compensable injury.

However, we note that Section 504.019(b), as amended effective September 1, 2019, to apply to a claim for workers' compensation benefits based on a compensable injury that occurs on or after that date, states, in part, that "[PTSD] suffered by a first responder is a compensable injury if it is based on a diagnosis that: (1) the disorder is caused by *one or more* [emphasis added] events occurring in the course and scope of the first responder's employment."¹ Section 504.019(a)(1) states, in part, that peace officers under Article 2.12 of the Code of Criminal Procedure are first responders.

The ALJ further stated in her decision that the self-insured relied on Section 408.006(b), which states that notwithstanding Section 504.019, a mental or emotional injury that arises principally from a legitimate personnel action, including a transfer, promotion, demotion, or termination, is not a compensable injury under this subtitle. The ALJ found in Finding of Fact No. 4 that the claimant's anxiety and other reported symptoms were as a result of her demotion and transfer to night patrol duty, a legitimate personnel action. This finding and 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.

In the case on appeal, the ALJ made clear that she based her decision on her finding that the claimant's symptoms were as a result of a legitimate personnel action and not her work as a police detective. However, a written decision is being issued to clarify that under Section 504.019, as amended on September 1, 2019, PTSD in a first responder, as is the claimant, may be compensable even when it is caused by more than one event occurring in the course and scope of employment.

SUMMARY

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

¹ Acts 2019, 86th Leg., R.S., Ch. 1101 (H.B. 2143), Sec. 1, eff. September 1, 2019.

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, STATE ZIP CODE.**

Cristina Beceiro
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge