

APPEAL NO. 220143
FILED MARCH 23, 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 (CCH) was held on June 2, 2021, and December 7, 2021, with the record closing on December 17, 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), extends to severe chronic pain syndrome; (2) the compensable injury sustained on (date of injury), does not extend to the following right upper extremity conditions: motor/sensory median neuropathy, a hematoma within the proximal extensor digitorum muscle posterior to the proximal radius and supinator muscle, an aggravation of carpal tunnel syndrome, or complex regional pain syndrome/reflex sympathetic dystrophy (CRPS/RSD); (3) the appellant (claimant) did have disability from July 3, 2020, and continuing through the date of the CCH as a result of the compensable injury sustained on (date of injury); (4) the claimant reached maximum medical improvement (MMI) on March 2, 2021; and (5) the claimant's impairment rating (IR) is zero percent.

The claimant appealed the ALJ's extent-of-injury determination that was adverse to him, as well as the ALJ's MMI and IR determinations. The respondent (carrier) responded, urging affirmance of the ALJ's determinations. The ALJ's determinations that the compensable injury sustained on (date of injury), extends to severe chronic pain syndrome and the claimant had disability from July 3, 2020, and continuing through the date of the CCH as a result of the compensable injury sustained on (date of injury), were not appealed and have become final pursuant to Section 410.169.

DECISION

Reversed and remanded.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), at least in the form of a right forearm contusion. The claimant was injured on (date of injury), while inserting a fan unit on the back of a bulldozer.

The ALJ's decision and order states the following exhibits were admitted into evidence: ALJ's exhibits 1 through 3; claimant's exhibits 1 through 26; and carrier's exhibits A through N. The carrier's exhibit list states that carrier's exhibit J contains 12 pages; however, the case file provided to use for review contains exhibit J pages 1 through 11. Because the record is incomplete, it must be remanded for the addition or reconstruction of the missing exhibit. See Appeals Panel Decision (APD) 030543, decided April 18, 2003; and APD 210136, decided March 26, 2021.

Additionally, we note that Finding of Fact No. 3 contains a clerical error that requires correction on remand. The extent-of-injury issue before the ALJ as agreed to by the parties at the CCH was whether the compensable injury extended to conditions of the right upper extremity. The extent-of-injury issue is correctly stated in the issue statement, conclusions of law, decision, and decision and order sections of the decision. However, Finding of Fact No. 3 refers to the right shoulder, not the right upper extremity. On remand this finding should be corrected to reflect the extent-of-injury conditions that were to be determined by the ALJ.

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 **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS, TEXAS 75201-3136.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Margaret L. Turner
Appeals Judge