

APPEAL NO. 230373
FILED APRIL 27, 2023

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 November 30, 2022, with the record closing on February 6, 2023, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issue by deciding that the compensable injury of (date of injury), extends to a bilateral inguinal hernia.

The appellant (self-insured) appealed the ALJ's extent-of-injury determination. The self-insured contends, in part, that the ALJ erred in not considering its response to a report from (Dr. C), the designated doctor, that the self-insured timely submitted to the ALJ after the CCH before the record was closed. The respondent (claimant) responded, urging affirmance of the appealed determination.

DECISION

Reversed and remanded.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), in the form of at least an abdominal strain, and that the Texas Department of Insurance, Division of Workers' Compensation (Division) appointed Dr. C as the designated doctor for the purpose of extent of injury. The claimant testified he was injured while rolling up a firehose on (date of injury).

At the conclusion of the CCH, the ALJ issued an order for Dr. C, the designated doctor, to re-examine the claimant and review additional medical records. Dr. C then issued a report. The ALJ had the report submitted to the parties and provided them an opportunity to respond. The ALJ held the record open until 5:00 p.m. on February 3, 2023, for the parties to submit their responses to Dr. C's new report. Under the Discussion in the Decision and Order, the ALJ stated that "[t]he claimant responded that he was in agreement with Dr. [C's] determination. The insurance carrier did not provide a response."

The self-insured contends on appeal that it submitted its response to Dr. C's report on Friday, February 3, 2023. The self-insured attached email correspondence regarding the submission of that response. In an email dated February 3, 2023, 2:22 p.m., from the self-insured to the claimant, the claimant's ombudsman, and the proceedings resolution officer assigned to the ALJ, the self-insured noted it had attached the self-insured's closing arguments. The attached closing arguments addressed the new report issued by Dr. C.

The self-insured in this case timely submitted its response to the additional report issued by the designated doctor in the manner required by the ALJ to consider prior to the closing of the record on February 6, 2023. Accordingly, we reverse the ALJ's determination and remand the extent-of-injury issue to the ALJ for further consideration of the complete record and for further proceedings consistent with this decision.

SUMMARY

We reverse the ALJ's determination that the compensable injury of (date of injury), extends to a bilateral inguinal hernia and remand this issue to the ALJ for further action consistent with this decision.

REMAND INSTRUCTIONS

On remand the ALJ is to consider the self-insured's response to the new report issued by Dr. C, the designated doctor. The ALJ is then to make a determination of whether the (date of injury), compensable injury extends to a bilateral inguinal hernia.

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 Appeals Panel Decision 060721, decided June 12, 2006.

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)
CITY SECRETARY
(ADDRESS)
(CITY), (STATE) (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Carisa Space-Beam
Appeals Judge