

APPEAL NO. 230673
FILED JUNE 29, 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 March 22, 2023, with the record closing on April 6, 2023, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues in Docket No. (number) by deciding that: (1) the appellant (claimant) did not sustain a compensable repetitive trauma injury on July 1, 2021; and (2) respondent 2 (carrier 2) is relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001. The claimant appealed, disputing the ALJ's determinations. The claimant points out on appeal that the ALJ's decision lists no findings of fact regarding the appealed issues. Carrier 2 responded, urging affirmance of the ALJ's determinations.

The ALJ resolved the disputed issue in Docket No. (number) by deciding that the compensable injury of May 15, 2001, does not extend to a triangular fibrocartilage complex tear of the left wrist. Neither the claimant nor respondent 1 (carrier 1) appealed the ALJ's decision in Docket No. (number); accordingly, the ALJ's determination in that docket number has become final pursuant to Section 410.169.

DECISION

Reversed and remanded.

The claimant contends he sustained a compensable repetitive trauma injury with a date of injury of July 1, 2021, by injuring his left wrist while stripping nuts and bolts from several cars per day using various power tools. The claimant testified he stripped approximately ten to fifteen cars a day, and that most of the bolts were corroded and required extra work to remove them.

Section 410.168 provides that an ALJ's decision contains findings of fact and conclusions of law, a determination of whether benefits are due, and an award of benefits due. 28 Tex. Admin. Code § 142.16 (Rule 142.16) provides that an ALJ's decision shall be in writing and include findings of fact, conclusions of law, and a determination of whether benefits are due, and if so, an award of benefits due.

The ALJ states in Conclusion of Law No. 3 that the claimant did not sustain a compensable repetitive trauma injury on July 1, 2021. The ALJ states in Conclusion of Law No. 4 that carrier 2 is relieved of liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001. Although the ALJ made a conclusion of law, decision, and discussed the compensability and

timely notice to the employer issues in his discussion of the evidence, the ALJ failed to make a finding of fact on either of these two issues. Because the ALJ's decision contains no findings of fact regarding these two issues, which were properly before him to resolve, it does not comply with Section 410.168 and Rule 142.16. We therefore reverse the ALJ's determinations that the claimant did not sustain a compensable repetitive trauma injury on July 1, 2021, and that carrier 2 is relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001 as being incomplete, and we remand these issues to the ALJ for further action consistent with this decision. See Appeals Panel Decision (APD) 132339, decided December 12, 2013; APD 180839, decided, June 4, 2018; and APD 211064, decided September 1, 2021.

SUMMARY

We reverse the ALJ's determination that the claimant did not sustain a compensable repetitive trauma injury on July 1, 2021, as being incomplete, and we remand the issue whether the claimant sustained a compensable repetitive trauma injury with a date of injury of July 1, 2021, to the ALJ for further action consistent with this decision.

We reverse the ALJ's determination that carrier 2 is relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001 as being incomplete, and we remand the issue of timely notice to the employer to the ALJ for further action consistent with this decision.

REMAND INSTRUCTIONS

On remand the ALJ is to make findings of fact, conclusions of law, and a decision regarding whether the claimant sustained a compensable repetitive trauma injury with a date of injury of July 1, 2021, and whether carrier 2 is relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001.

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 **SENTRY CASUALTY COMPANY** 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