

APPEAL NO. 230893
FILED AUGUST 11, 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 April 25, 2023, with the record closing on May 10, 2023, 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 of (date of injury), does not extend to cervical spine sprain with radiculopathy, cervical spine herniated nucleus pulposus at C5-6 or C6-7, or aggravation of spinal stenosis at C5-6 and C6-7; (2) the appellant (claimant) reached maximum medical improvement (MMI) on June 23, 2022; (3) the claimant's impairment rating (IR) is zero percent; and (4) the claimant had disability beginning on (date of injury), and continuing through the date of the CCH. The claimant appealed the ALJ's extent-of-injury, MMI, and IR determinations. The respondent (carrier) responded, urging affirmance of the appealed determinations.

The ALJ's determination that the claimant had disability beginning on (date of injury), and continuing through the date of the CCH was not appealed and has become final pursuant to Section 410.169.

DECISION

Reformed in part and reversed and remanded in part.

The parties stipulated, in part, that: (1) on (date of injury), the claimant sustained a compensable injury that extends to a cervical spine strain; and (2) the Texas Department of Insurance, Division of Workers' Compensation (Division) appointed (Dr. H) as designated doctor to determine extent of injury, MMI, IR, disability, and return to work. The claimant, a derrickman, was injured on (date of injury), while pulling pipe with rope. He testified that he gradually felt pain that extended into his left arm. We note that the parties agreed on the record to amend the employer's name in Finding of Fact 1.B. to Helmerich & Payne International Drilling Company. Therefore, we reform Finding of Fact 1.B. to reflect the correct employer name as stipulated by the parties.

EXTENT OF INJURY

Section 410.168 provides that an ALJ's decision contain findings of fact and conclusions of law, a determination of whether benefits are due, and an award of benefits due. 28 Texas Administrative 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 Benefit Review Conference Report in evidence indicates the following extent-of-injury issue in this case: Does the compensable injury of (date of injury), extend to and include cervical spine sprain with radiculopathy, cervical spine herniated nucleus pulposus at C5-C6 and C6-C7, and aggravation of spinal stenosis at C5-6 and C6-7? During the CCH, the record indicates that the parties agreed to amend the issue to state: Does the compensable injury of (date of injury), extend to and include cervical spine sprain, cervical radiculopathy, cervical spine herniated nucleus pulposus at C5-6 and C6-7, and aggravation of spinal stenosis at C5-6 and C6-7? We note that the ALJ failed to amend the issue as agreed to by the parties. The ALJ states in Conclusion of Law No. 3 and the Decision section that the compensable injury of (date of injury), does not extend to cervical spine sprain with radiculopathy, cervical spine herniated nucleus pulposus at C5-6 or C6-7, or aggravation of spinal stenosis at C5-6 and C6-7. However, the ALJ failed to make any findings of fact addressing the issue of extent of injury. Because the ALJ's decision contains no findings of fact regarding whether the compensable injury of (date of injury), extends to cervical spine sprain, cervical radiculopathy, cervical spine herniated nucleus pulposus at C5-6 and C6-7, and aggravation of spinal stenosis at C5-6 and C6-7, which was an issue properly before the ALJ to resolve, it does not comply with Section 410.168 and Rule 142.16. We therefore reverse the ALJ's determination that the compensable injury of (date of injury), does not extend to cervical spine sprain with radiculopathy, cervical spine herniated nucleus pulposus at C5-6 or C6-7, or aggravation of spinal stenosis at C5-6 and C6-7 as being incomplete, and we remand the extent-of-injury issue 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 181357, decided July 30, 2018.

MMI AND IR

As we have remanded the issue of whether the compensable injury of (date of injury), extends to cervical spine sprain, cervical radiculopathy, cervical spine herniated nucleus pulposus at C5-6 and C6-7, and aggravation of spinal stenosis at C5-6 and C6-7, we must also reverse the ALJ's determinations that the claimant reached MMI on June 23, 2022, and the claimant's IR is zero percent and remand the issues of MMI and IR to the ALJ for further action consistent with this decision.

SUMMARY

We reform Finding of Fact No. 1.B. to state that on (date of injury), the claimant was an employee of Helmerich & Payne International Drilling Company to correctly reflect the stipulation made by the parties at the CCH.

We reverse the ALJ's determination that the compensable injury of (date of injury), does not extend to cervical spine sprain with radiculopathy, cervical spine herniated nucleus pulposus at C5-6 or C6-7, or aggravation of spinal stenosis at C5-6 and C6-7 as being incomplete, and we remand the extent-of-injury issue to the ALJ for further action consistent with this decision.

We reverse the ALJ's determinations that the claimant reached MMI on June 23, 2022, and the claimant's IR is zero percent and remand the issues of MMI and IR to the ALJ for further action consistent with this decision.

REMAND INSTRUCTIONS

On remand, the ALJ is to make a finding of fact, conclusion of law, and a decision regarding whether the compensable injury of (date of injury), extends to cervical spine sprain, cervical radiculopathy, cervical spine herniated nucleus pulposus at C5-6 and C6-7, and aggravation of spinal stenosis at C5-6 and C6-7 that is supported by the evidence and consistent with this decision. The ALJ is then to make a finding of fact, conclusion of law, and a decision regarding the issues of MMI and IR that is supported by the evidence and consistent with this decision.

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 **AIU INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701.**

Cristina Beceiro
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge