

APPEAL NO. 231602  
FILED DECEMBER 21, 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 October 3, 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 respondent (claimant) sustained a compensable injury on (date of injury); (2) the compensable injury of (date of injury), did not occur while the claimant was in a state of intoxication, as defined in Section 401.013, thus, the appellant (carrier) is not relieved of liability for compensation; and (3) the claimant did have disability from the compensable injury from June 10, 2023, through the date of the CCH. The carrier appealed, disputing the ALJ's determinations of compensability, disability, and intoxication. The claimant responded, urging affirmance of the disputed determinations.

**DECISION**

Affirmed in part and reversed and remanded in part.

The claimant testified he was injured in an accident while using a **four-wheeler** to spray mesquite trees. The medical records in evidence reflect that the claimant sustained multiple fractures and other injuries.

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 ALJ's determination that the claimant sustained a compensable injury on (date of injury), is supported by sufficient evidence and is affirmed.

**INTOXICATION**

The ALJ's determination that the compensable injury of (date of injury), did not occur while the claimant was in a state of intoxication, as defined in Section 401.013,

thus, the carrier is not relieved of liability for compensation is supported by sufficient evidence and is affirmed.

## **DISABILITY**

That portion of the ALJ's determination that the claimant had disability from the (date of injury), compensable injury from June 10, 2023, through the date of the CCH is supported by sufficient evidence and is affirmed.

According to the Benefit Review Conference Report, the disability issue in dispute was as follows: Did the claimant have disability from the claimed injury from June 10, 2023, to the present? However, at the CCH the parties agreed to modify the dates of disability in dispute. The parties agreed to "cover the whole period" and modified the disability issue to a beginning date of May 6, 2023. The ALJ failed to correctly identify the modified disability issue agreed to by the parties in the decision.

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 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. As previously noted, the beginning date of the period of disability in dispute at the CCH was May 6, 2023. However, the ALJ failed to make a finding of fact or conclusion of law of whether the claimant had disability from May 6, 2023, through June 9, 2023. Because the ALJ failed to make a determination on the entire disability period properly before him to determine, the ALJ's decision is reversed as being incomplete. See Appeals Panel Decision (APD) 171088, decided June 21, 2017, and APD 182482, decided December 19, 2018. We remand that portion of the disability issue to the ALJ to determine whether the claimant had disability from May 6, 2023, through June 9, 2023.

## **SUMMARY**

We affirm the ALJ's determination that the claimant sustained a compensable injury on (date of injury).

We affirm the ALJ's determination that the compensable injury of (date of injury), did not occur while the claimant was in a state of intoxication, as defined in Section 401.013, thus, the carrier is not relieved of liability for compensation.

We affirm that portion of the ALJ's determination that the claimant had disability from June 10, 2023, through the date of the CCH.

We reverse the ALJ's decision as being incomplete and remand that portion of the disability issue to the ALJ to determine whether the claimant had disability from May 6, 2023, through June 9, 2023.

### **REMAND INSTRUCTIONS**

On remand the ALJ is to make findings of fact, conclusions of law, and a decision regarding whether the claimant had disability from May 6, 2023, through June 9, 2023.

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

**JEANETTE WARD, PRESIDENT & CEO  
2200 ALDRICH STREET  
AUSTIN, TEXAS 78723.**

---

Margaret L. Turner  
Appeals Judge

CONCUR:

---

Cristina Beceiro  
Appeals Judge

---

Carisa Space-Beam  
Appeals Judge