

APPEAL NO. 240353
FILED APRIL 22, 2024

This appeal arises pursuant to the Texas Workers' Compensation Act, Tex. Lab. Code Ann. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 14, 2024, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) (employer), was not the appellant's (claimant) employer for purposes of the Texas Workers' Compensation Act at the time of the (date of injury), claimed injury; (2) the claimant did not sustain a compensable injury on (date of injury); and (3) because the claimant did not sustain a compensable injury, he did not have disability. The claimant appealed, disputing the ALJ's determinations. The respondent (carrier) responded, urging affirmance of the ALJ's determinations.

DECISION

Affirmed in part and reversed and remanded in part.

The claimant testified that he was injured on (date of injury). The claimant was cleaning the inside of a truck and when he went to exit the cab of the truck his right foot hit a fire extinguisher, which ultimately caused him to fall and twist his right ankle.

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).

EMPLOYER

The ALJ's determination that (employer), was not the claimant's employer for purposes of the Texas Workers' Compensation Act at the time of the (date of injury), claimed injury is supported by the evidence and is affirmed.

COMPENSABLE INJURY

The ALJ's determination that the claimant did not sustain a compensable injury on (date of injury), is supported by sufficient evidence and is affirmed.

DISABILITY

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.

One of the issues properly before the ALJ to resolve was whether the claimant had disability resulting from the claimed injury. Although the ALJ's decision contains conclusions of law and a decision on that issue, the decision does not contain any findings of fact on the issue of disability. The ALJ's decision does not comply with Section 410.168 and Rule 142.16. Accordingly, we reverse the ALJ's decision as being incomplete and we remand the issue of whether the claimant had disability resulting from the claimed injury to the ALJ for further action consistent with this decision.

SUMMARY

We affirm the ALJ's determination that (employer), was not the claimant's employer for purposes of the Texas Workers' Compensation Act at the time of the (date of injury), claimed injury.

We affirm the ALJ's determination that the claimant did not sustain a compensable injury on (date of injury).

We reverse the ALJ's decision as being incomplete, and we remand the issue of whether the claimant had disability resulting from the claimed injury 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 whether the claimant had disability resulting from the claimed injury.

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 Appeals Panel Decision 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **TECHNOLOGY INSURANCE COMPANY, INC.** and the name and address of its registered agent for service of process is

**UNITED AGENT GROUP, INC.
5444 WESTHEIMER ROAD, SUITE 1000
HOUSTON, TEXAS 77056-5318.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Margaret L. Turner
Appeals Judge