
**APPEALS BOARD
UTAH LABOR COMMISSION**

LANCE WILLIAM HANNA,

Petitioner,

vs.

**JUDD JONES REFRACTORY, MID-
CENTURY INSURANCE CO and
WORKERS COMPENSATION FUND,**

Respondents.

**ORDER GRANTING
MOTION FOR REVIEW**

ORDER OF REMAND

Case No. 05-0992

Mid-Century Insurance Co. (“Mid-Century”), one of the workers’ compensation insurance carriers for Judd Jones Refractory (“the Refractory”), asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Hann's determination that Mid-Century is liable for benefits due Lance William Hanna under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Appeals Board exercises jurisdiction over this motion for review pursuant to § 63G-4-301 of the Utah Administrative Procedures Act and § 34A-2-801(3) of the Utah Workers Compensation Act.

BACKGROUND AND ISSUE PRESENTED

Mr. Hanna claims benefits under the Utah Workers’ Compensation Act or, alternatively, the Utah Occupational Disease Act, for back problems allegedly caused by his work at the Refractory. Mid-Century provided the Refractory’s workers’ compensation insurance coverage during most of the time Mr. Hanna worked there. However, Workers’ Compensation Fund (“WCF”) provided the Refractory’s coverage during a period at the end of Mr. Hanna’s employment. Consequently, Mr. Hanna’s claim not only presents the question of his right to receive benefits but also raises the question of which insurance carrier is liable for those benefits.

Judge Hann’s decision concluded that Mr. Hanna’s spinal problems are the result of an accident at the Refractory on November 20, 2000, while Mid-Century was the Refractory’s insurance carrier. Judge Hann therefore ordered Mid-Century to pay Mr. Hanna’s benefits.

In requesting review of Judge Hann’s decision, Mid-Century argues that Judge Hann failed to address its assertion that Mr. Hanna’s spinal problems arose from his work at the Refractory during the period when WCF provided the company’s insurance coverage. Mid-Century also contends that the evidence does not support Judge Hann’s award of benefits to Mr. Hanna. Finally, Mid-Century contends an impartial medical panel should be appointed to evaluate the medical

ORDER GRANTING MOTION FOR REVIEW / REMAND
LANCE WILLIAM HANNA
PAGE 2 OF 3

aspects of Mr. Hanna's claim.¹ Because the Appeals Board finds this last argument dispositive, it does not address Mid-Century's other arguments.

DISCUSSION

A survey of the medical evidence in this case shows that the causes, development and nature of Mr. Hanna's spinal problems are very much in dispute. Mr. Hanna, Mid-Century and WCF have each submitted reports and opinions from their respective medical experts, but each expert expresses a different opinion:

- WCF's medical consultant described Mr. Hanna as a strong, healthy worker prior to an accident at the Refractory on November 10, 2000, a date when Mid-Century provided the Refractory's insurance coverage. WCF's consultant attributed essentially all of Mr. Hanna's spinal problems to the November 2000 accident.
- Mid-Century's medical consultants concluded that Mr. Hanna had long-standing spinal problems that were aggravated by his work activities after February 12, 2002, the date when WCF began providing the Refractory's insurance coverage.
- Mr. Hanna's treating physician expressed somewhat inconsistent opinions regarding Mr. Hanna's spinal problems, but recognized the differences of opinions among the medical experts. This led the treating physician to recommend the appointment of an impartial medical panel to evaluate Mr. Hanna's case.

Workers' compensation and occupational disease claims often present difficult medical questions. Section 34A-2-601(1)(a) of the Utah Workers' Compensation Act authorizes the Commission's Adjudication Division to appoint impartial medical panels to assist in evaluating these questions. The Commission's Rule 602-2-2.A defines the circumstances which require appointment of medical panels.

A panel will be utilized by the Administrative Law Judge where one or more significant medical issues may be involved. Generally a significant medical issue must be shown by conflicting medical reports. Significant medical issues are involved when there are . . . [c]onflicting medical opinions related to causation of the injury or disease

While the foregoing rule explains when a panel **must** be appointed, the Commission and its ALJs retain discretion to appoint medical panels in other cases that would benefit from a panel's expertise. Mr. Hanna's claim presents unusually complex medical questions. The parties' respective medical opinions each suffer from obvious errors or omissions and cannot be reconciled.

¹ The Appeals Board notes that Mid-Century and Mr. Hanna have entered into a settlement agreement that resolves their dispute but allows Mid-Century to pursue its contention that WCF is ultimately liable for Mr. Hanna's benefits.

**ORDER GRANTING MOTION FOR REVIEW / REMAND
LANCE WILLIAM HANNA
PAGE 3 OF 3**

The Appeals Board therefore concludes that an impartial panel of medical experts should be appointed to evaluate the medical aspects of Mr. Hanna's claim and then report the panel's conclusions to Judge Hann. Judge Hann may also conduct such additional adjudicative proceedings as she considers necessary. Judge Hann will then issue a new decision based on all the evidence of record in this matter, including the medical panel's report.

ORDER

The Appeals Board sets aside Judge Hann's decision of September 15, 2006, and remands this matter to Judge Hann for further proceedings consistent with this decision.

Dated this 18th day of August, 2009.

Colleen S. Colton, Chair

Patricia S. Drawe

Joseph E. Hatch