
UTAH LABOR COMMISSION

ERIC R. ANDERSON,

Petitioner,

vs.

**WELDING SERVICE, INC. and ACE
AMERICAN INSURANCE COMPANY,**

Respondents.

**ORDER SETTING ASIDE ALJ'S
DECISION AND REMANDING
FOR FURTHER PROCEEDINGS**

Case No. 06-0914

Eric R. Anderson asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's denial of his claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission 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. Anderson claims medical benefits and permanent total disability compensation for injuries to his right and left shoulders allegedly caused by his work for Welding Service on May 16, 2004. Judge La Jeunesse has previously determined that Mr. Anderson's work exertions caused his left shoulder injury. However, in this proceeding, Judge La Jeunesse concluded that Mr. Anderson's right shoulder injury was not work-related and that he was not entitled to permanent total disability compensation.

In challenging Judge La Jeunesse's decision, Mr. Anderson argues that Judge La Jeunesse should have referred the medical aspects of his right shoulder injury to a medical panel. Mr. Anderson also argues that Judge La Jeunesse failed to properly assess Mr. Anderson's functional limitations and the effect of those limitations on Mr. Anderson's ability to work.

DISCUSSION

On May 16, 2004, Mr. Anderson was working for Welding Service to replace tubes in a boiler. Mr. Anderson was using a hydraulic jack, which malfunctioned and forced him to pull on the jack handle as hard as he could. There is no dispute that this event injured Mr. Anderson's left shoulder. With respect to Mr. Anderson's right shoulder, the medical opinions are in conflict. Welding Service's medical experts, Dr. Dall and Dr. Marble, concluded the right shoulder injury was not caused by Mr. Anderson's work-related exertions. Dr. Colledge concluded he did not have enough information to determine the cause of injury. Mr. Anderson's physician, Dr. John Jackson,

opined that the work exertion did cause the right shoulder injury.

Section 34A-2-601 of the Utah Workers' Compensation Act allows the Commission's ALJs to appoint panels of medical experts to evaluate the medical aspects of disputed workers' compensation claims. The Commission's Rule 602-2-2(A) identifies some circumstances in which medical panels must be appointed.

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...

In this case, Mr. Anderson's claim that his right shoulder was injured at work is supported by Dr. John Jackson's opinion. On the other hand, the record contains contrary opinions from Welding Service's medical consultations. In light of these conflicting opinions, the Commission concludes that Rule 602-2-2(A) requires appointment of a medical panel to evaluate whether Mr. Anderson's work at Welding Service caused his right shoulder injury. The Commission remands this matter to Judge La Jeunesse for appointment of such a panel and for such other proceedings as Judge La Jeunesse deems appropriate. Because resolution of the cause of Mr. Anderson's right shoulder injury may have some bearing on Mr. Anderson's claim for permanent total disability compensation, Judge La Jeunesse is also authorized on remand to re-evaluate that claim.

ORDER

The Commission sets aside Judge La Jeunesse's decision and remands this matter to Judge La Jeunesse for further proceedings consistent with this finding. It is so ordered.

Dated this 14th day of October, 2009.

Sherrie Hayashi
Utah Labor Commissioner