
In the Matter of the Compensation of
SCOTT M. RUSSELL, Claimant
WCB Case Nos. 04-0242M; 04-0148M; 04-03866; 04-03817; 04-00382
FINAL OWN MOTION ORDER AND OWN MOTION ORDER
J Michael Casey, Claimant Attorneys
VavRosky MacColl Olson et al, Defense Attorneys

Reviewing Panel: Members Lowell and Biehl.

Travelers Insurance Company (Travelers) has submitted a “Carrier’s Own Motion Recommendation,” indicating that claimant seeks reopening of either one of his 1984 low back injury claims for “post-aggravation rights” new medical conditions (L4-5 and L5-S1 disc herniations). *See* ORS 656.278(1) (b) (2001). Claimant’s aggravation rights under his 1984 injury claims have expired. Travelers opposes the reopening of the claim, contending that claimant’s new medical conditions are not related to his previously accepted claim. We deny the reopening of the claim.

FINDINGS OF FACT

On June 8, 2004, we deferred action on this matter pending resolution of matters arising from claimant’s hearing requests in WCB Case Nos. 04-03866, 04-03817, and 04-00382.

A hearing convened on August 26, 2004. On September 17, 2004, the ALJ issued an Opinion and Order and a Proposed and Final Own Motion Order that upheld Traveler’s denials of compensability of and responsibility for claimant’s L4-5 and L5-S1 disc conditions and set aside Liberty Northwest Insurance Corporation’s (Liberty’s) denials of the same conditions. The ALJ also recommended that we deny claimant’s request for “Own Motion” reopening of the 1984 “Travelers claim” for the new medical conditions.

We adopt the “Findings of Fact” and “Findings of Ultimate Fact” contained in the ALJ’s order, which found that neither one of claimant’s accepted 1984 low back strain injuries was compensably related to the claimed L4-5 and L5-S1 disc herniation conditions.

CONCLUSIONS OF LAW AND OPINION

In an Order on Review, issued today, we adopted the reasoning and conclusion contained in the ALJ's "Conclusions of Law and Opinions." (WCB Case No. 03-06338). We found that the record establishes that claimant's work activities for Liberty's insured were the major contributing cause of his L4-5 and L5-S1 disc herniations and the major contributing cause of a pathological worsening of the L5-S1 condition. *See* ORS 656.802(2). We also adopted the ALJ's conclusion that Liberty is responsible for claimant's L4-5 and L5-S1 conditions.

Under these circumstances, we adopt the ALJ's reasoning and conclusion that the disputed conditions are not compensably related to claimant's Travelers' claims. Consequently, it follows that claim reopening of either one of claimant's 1984 "Travelers claims" under ORS 656.278(1)(b) (2001) is not warranted. Accordingly, we deny claimant's request for Own Motion relief.

IT IS SO ORDERED.

Entered at Salem, Oregon on March 8, 2005