
In the Matter of the Compensation of
TRACY L. HARDWICK, Claimant
WCB Case No. 09-02332
ORDER ON REVIEW
J R Perkins III, Claimant Attorneys
MacColl Busch Sato PC, Defense Attorneys

Reviewing Panel: Members Lowell and Weddell.

Claimant requests review of Administrative Law Judge (ALJ) Rissberger's order that upheld the self-insured employer's denial of her occupational disease claim for bilateral carpal tunnel syndrome (CTS). With her brief, claimant has submitted documents that were not admitted at hearing. We treat claimant's submissions as a motion for remand to the ALJ for further evidence taking. *Juan H. Mendez*, 60 Van Natta 3150 (2008). The employer objects to claimant's submissions and moves to strike portions of claimant's brief. On review, the issues are remand, motion to strike, and compensability.

We deny the motion to remand, grant the motion to strike, and adopt and affirm the ALJ's order with the following supplementation and changes. In the third paragraph on page 5, we replace the third sentence with the following: "Dr. Button concluded that claimant's data input activities did not lead to hypertrophy within the carpal tunnel and did not compress the median nerve. (Ex. 31-3)." Also on page 5, we delete the second sentence in the last paragraph.

With her brief, claimant has submitted "Attachment 1," which consists of several documents not admitted at hearing that pertain to the anatomy of the hand and wrist. We treat claimant's submissions as a motion for remand to the ALJ for further evidence taking. *Mendez*, 60 Van Natta at 3150.

Our review is limited to the record developed by the ALJ. We may remand to the ALJ if we find that the case has been "improperly, incompletely or otherwise insufficiently developed[.]" ORS 656.295(5). There must be a compelling reason for remand to the ALJ for the taking of additional evidence. *SAIF v. Avery*, 167 Or App 327, 333 (2000). A compelling reason exists when the new evidence: (1) concerns disability; (2) was not obtainable at the time of the hearing; and (3) is reasonably likely to affect the outcome of the case. *Id.*; *Compton v. Weyerhaeuser Co.*, 301 Or 641, 646 (1986).

Claimant has not demonstrated how the proffered documents were either unobtainable with due diligence at the time of the hearing, or are reasonably likely to affect the outcome of the case. Accordingly, we deny claimant's motion to remand for the taking of additional evidence.

In addition, because claimant's brief refers to evidence outside the record, we grant the employer's motion to strike those portions of claimant's brief that refer to such evidence. *See Scott J. Powers*, 62 Van Natta 1341, 1342 (2010).

ORDER

The ALJ's order dated October 28, 2010 is affirmed.

Entered at Salem, Oregon on May 27, 2011