

BRB No. 06-0920

WILLIAM MANNING)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
SERVICE EMPLOYEES)	DATE ISSUED: 06/28/2007
INTERNATIONAL, INCORPORATED)	
)	
and)	
)	
INSURANCE COMPANY OF THE STATE)	
OF PENNSYLVANIA)	
)	
Employer/Carrier-)	
Respondents)	DECISION and ORDER

Appeal of the Decision and Order of Lee J. Romero, Jr., Administrative Law Judge, United States Department of Labor.

William L. Manning, Houston, Texas, *pro se*.

Before: DOLDER, Chief Administrative Appeals Judge, SMITH and McGRANERY, Administrative Appeals Judges.

PER CURIAM:

Claimant, without the assistance of counsel, appeals the Decision and Order (2006-LDA-33) of Administrative Law Judge Lee J. Romero, Jr., rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.*, as extended by the Defense Base Act, 42 U.S.C. §1651 *et seq.* (the Act). In an appeal by a claimant without representation by counsel, the Board will review the administrative law judge's findings of fact and conclusions of law to determine if they are rational, supported by substantial evidence, and in accordance with law. If they are, they must be affirmed. *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3); 20 C.F.R. §§802.211(e), 802.220.

Claimant commenced employment with employer as a labor foreman on May 29, 2004. On June 2, 2004, claimant deployed to Baghdad, Iraq, where his employment duties east of the Green Zone involved escorting and supervising civilian contractors. On October 4, 2004, a nearby mortar explosion resulted in claimant's sustaining multiple superficial fragment wounds to his extremities and a fractured right arm.¹ Claimant was evacuated to Germany on October 6, 2004, and shortly thereafter he returned to Houston, Texas. Employer voluntarily paid claimant temporary total disability benefits from October 7, 2004 to November 5, 2004, but denied all medical treatment sought by claimant upon his return to the United States. Claimant sought ongoing disability and medical benefits under the Act, contending that he sustained work-related injuries to his back, left leg and hip, and neck, as well as problems with his vision and hearing, which entitle him, *inter alia*, to ongoing temporary total disability and medical benefits under the Act.

In his Decision and Order, the administrative law judge determined that claimant was entitled to invocation of the Section 20(a), 33 U.S.C. §920(a), presumption, based upon evidence which established that he sustained multiple injuries, and that working conditions existed on October 4, 2004, which could have caused those conditions. Next, the administrative law judge found that employer produced no evidence to rebut the invoked presumption; assuming, *arguendo*, that employer rebutted the presumption, the administrative law judge concluded that claimant established a causal relationship between his multiple conditions and his employment based upon a weighing of the evidence of record. Next, the administrative law judge determined that claimant's various injuries had yet to reach maximum medical improvement, that claimant is unable to return to his usual job as a labor foreman with employer, that employer failed to establish the availability of suitable alternate employment, and that claimant's average weekly wage at the time of his work-injury entitled him to the maximum weekly benefit allowed under the Act. Accordingly, the administrative law judge awarded claimant temporary total disability compensation from October 4, 2004, and continuing at a rate of \$1,047.16 per week. 33 U.S.C. §§908(b), 906(b). The administrative law judge also found that claimant is entitled to all reasonable and necessary medical treatment for his work-related injuries, including rehabilitation for his right upper extremity, treatment for his shrapnel wounds, and care and treatment for his back, left leg and hip, neck, vision and hearing loss. 33 U.S.C. §907. Lastly, the administrative law judge determined that claimant was entitled to an assessment pursuant to Section 14(e), 33 U.S.C. §914(e), on the benefits owed to claimant through December 12, 2004, and interest on the disability benefits due claimant.

¹ Specifically, the medical documentation of claimant's injuries notes wounds to claimant's nose, abdomen, left forearm, wrist, hand, fingers, thigh and calf, and right shoulder, hip, thigh and calf. CX 1 at 2,4, 7.

On appeal, claimant, representing himself, challenges the administrative law judge's decision by filing a notice of appeal. Employer has not responded to claimant's appeal.

Before the administrative law judge, employer conceded that claimant's broken right arm and multiple shrapnel wounds were work-related but controverted the alleged causal relationship between claimant's remaining medical conditions and the mortar explosion of October 4, 2004. Additionally, employer challenged claimant's claim for temporary total disability benefits,² contending that claimant has no continuing impairment as a result of his work-injury; alternatively, employer disputed claimant's calculation of his average weekly wage on any award. Employer also averred that, as claimant's work-related conditions had resolved, claimant is entitled to no medical benefits arising from the October 4, 2004, mortar attack. In his decision, the administrative law judge addressed and rejected each of employer's positions on the aforementioned issues; specifically, the administrative law judge found that 1) the totality of claimant's symptomatology is causally related to the October 4, 2004, working conditions experienced by claimant, 2) claimant remains totally disabled as a result of the injuries that he sustained as a result of the October 4, 2004, work-incident, 3) claimant is entitled to continuing temporary total disability benefits at the maximum weekly rate allowed by the Act, and 4) claimant is entitled to reasonable and necessary medical care and treatment resulting from his work-related injuries. Additionally, the administrative law judge agreed with claimant's position that employer was liable for a Section 14(e) assessment on compensation benefits owed to claimant through December 12, 2004, the date on which employer controverted claimant's claim for benefits, and for interest on the benefits owed to claimant by employer. Claimant was, therefore, completely successful in prosecuting his claim for continuing temporary total disability benefits at the maximum weekly rate allowable, reasonable and necessary medical benefits for the totality of his physical conditions, a Section 14(e) assessment on compensation owed by employer but unpaid until employer's controversion of claimant's claim, and interest. In a case involving an appeal by a claimant without legal representation, the Board reviews issues decided adversely to claimant under its statutory standard of review. *See O'Keefe*, 380 U.S. 359. In this case, claimant was awarded the benefits he claimed. As there were no findings adverse to claimant, there are no issues for the Board to review, and we therefore affirm the administrative law judge's decision.

Accordingly, the administrative law judge's Decision and Order is affirmed.

² Claimant, who was represented by counsel below, specifically argued that he had not yet reached maximum medical improvement. *See* H. Tr. at 12; Clt's post-hearing brief at 13, 27.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge