

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

F I L E D

January 31, 2011

No. 10-60210
Summary Calendar

Lyle W. Cayce
Clerk

TETRA TECHNOLOGIES, INC.; LIBERTY MUTUAL INSURANCE COMPANY,

Petitioners

v.

DIRECTOR, OFFICE OF WORKER'S COMPENSATION PROGRAMS, US DEPARTMENT OF LABOR; KEVIN W. MCCLENDON,

Respondents

Petition for Review of a Decision
and Order of the Benefits Review Board
BRB No. 09-0601

Before HIGGINBOTHAM, SMITH, and HAYNES, Circuit Judges.

PER CURIAM:^{*}

Tetra Technologies, Inc. and its insurance carrier appeal the award of temporary total disability benefits under the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. § 901 *et seq.*, to an employee who was injured in a workplace accident. Following a formal hearing, an Administrative Law Judge issued detailed findings of fact and conclusions of law that were affirmed by the

^{*} Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Benefits Review Board in a careful opinion. Petitioners argue that the ALJ's factual findings were not supported by substantial evidence and that the ALJ used the wrong statutory provision to calculate the employee's average weekly wage. Finding no error, we AFFIRM essentially for the reasons given by the Benefits Review Board.