

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JANET PHILLIPS-HUTER,

Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

v.

CASE NO. 1D12-3342

AMSTAFF HUMAN
RESOURCES/LIBERTY
MUTUAL FIRE INSURANCE
COMPANY,

Appellees.

Opinion filed May 6, 2013.

An appeal from an order of the Judge of Compensation Claims.
Nolan S. Winn, Judge.

Date of Accident: April 15, 2004.

John W. Wesley of Wesley, McGrail & Wesley, Fort Walton Beach, for Appellant.

Colleen Cleary Ortiz of Colleen Cleary Ortiz, P.A., Pensacola, for Appellees.

PER CURIAM.

In this workers' compensation case, Claimant appeals an order of the Judge of Compensation Claims (JCC) denying entitlement to permanent total disability (PTD) benefits. We reverse this ruling and write this brief opinion to give

direction to the JCC for further proceedings on remand. In this particular case, the JCC performed a diligent and ordered analysis of the various methods by which a claimant may establish entitlement to PTD benefits, as set forth in section 440.15(1), Florida Statutes (2003), and Blake v. Merck & Co., 43 So. 3d 882 (Fla. 1st DCA 2010). In so doing, the JCC investigated whether Claimant’s psychiatric condition, in conjunction with other factors, might establish her inability to “engage in at least sedentary employment” as the statute would require. As part of this investigation, the JCC considered whether Claimant had presented “clear and convincing” medical evidence that the compensable physical injury “remain[ed] the major contributing cause of the [psychiatric injury],” as required by section 440.093, Florida Statutes (2003). We agree with Claimant that the JCC erred in applying section 440.093 to this case because section 440.093 presents the test for compensability of psychiatric injuries, and, here, as the Employer/Carrier conceded at closing argument, the Employer/Carrier was not challenging compensability of Claimant’s psychiatric injury. This error effectively moots Claimant’s other point on appeal, a challenge to the JCC’s evidentiary rulings regarding doctors’ opinions on major contributing cause of the psychiatric injury.

REVERSED and REMANDED for further proceedings consistent with this opinion.

VAN NORTWICK, THOMAS, and ROBERTS, JJ., CONCUR.