

APPEAL NO. 92230

This appeal arises under the Texas Workers' Compensation Act of 1989 (1989 Act), TEX. REV. CIV. STAT. ANN. arts. 8308-1.01 through 11.10 (Vernon Supp. 1992). On April 27, 1992, a contested case hearing was held in (city), Texas, with (hearing officer) presiding. He determined that claimant, appellant herein, did not prove that he was injured in the course and scope of his employment on (date of injury). Appellant asserts that the evidence supports his position and argues that evidence from a non-treating doctor should not have been considered.

DECISION

Determining that there are no findings of fact made by the hearing officer upon which to base his decision, we reverse and remand.

Of the four findings of fact made, only one purports to address the issue of whether claimant injured his back in the course and scope of employment on (date of injury). That finding reads as follows:

Claimant failed to prove by a preponderance of the evidence that he injured his back in the course and scope of his employment on (date of injury).

This purported finding, as written, is more appropriately a conclusion of law rather than a finding of fact. As a conclusion of law, the decision then contains no supportive or ultimate findings of fact that address the dispute in this case. Article 8308-6.34(g) of the 1989 Act states that the hearing officer's decision is to include findings of fact. As indicated, the three other findings dealt with employment, insurance coverage, and residence. We interpret the requirement for findings of fact to mean that such findings of fact must address the issue(s) in dispute.

In remanding this case for the requested finding(s) of fact, we do not indicate that the evidence should be further developed. The record in this case contains a transcript and all exhibits. We do not attempt to impose any restriction upon the manner of making the relevant finding(s), the substance of the finding(s), or the extent to which evidence of record, if any, is further developed to reach the finding(s).

Reversed and remanded. Pending resolution of the remand, a final decision has not been made in this case.

Joe Sebesta
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Philip F. O'Neill
Appeals Judge