

APPEAL NO. 92346

A contested case hearing was held at (city), Texas on June 9, 1992, (hearing officer) presiding as hearing officer. He determined that respondent injured her back in the course and scope of her employment and was therefore entitled to benefits under the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN., art. 8308-1.01 *et seq.* (Vernon Supp. 1992) (1989 Act). Appellant finds fault with a number of the findings of fact and conclusions of law of the hearing officer and urges there was insufficient evidence or, alternatively, no evidence to support the decision.

DECISION

Finding that the second of two tapes recording the contested case hearing was not in the file forwarded to the Appeals Panel for review on this request for review and not otherwise being found, we reverse and remand.

Article 8303-6.42 of the 1989 Act requires that the Appeals Panel consider the "record developed at the contested case hearing." *Also see* Texas Workers' Compensation Commission Appeal No. 92131 (Docket No. redacted) decided May 15, 1992; Texas Workers' Compensation Commission Appeal No. 92151 (Docket No. redacted) decided July 10, 1992. This Appeals Panel cannot make a decision on the merits without a record, so we necessarily remand for a suitable reconstruction of that portion of the hearing that is represented by the missing tape.

The case is reversed and remanded for an expedited proceeding to effect a complete record of the contested case hearing. A final decision in this case is not rendered pending resolution of the matter on remand.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Sue M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge