

APPEAL NO. 92379

A contested case hearing was held June 23, 1992, in (city), Texas before (hearing officer), hearing officer. She held that the respondent (claimant below) was injured in the course and scope of his employment, and that he timely notified his employer of the injury. The hearing officer thus held that the respondent was 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 (employer's workers' compensation insurance carrier below) argues that respondent failed to meet his burden of proof on these issues.

DECISION

Because the tape which recorded the proceedings below had a significant portion which was blank, we reverse and remand.

Article 8308-6.42 of the 1989 Act requires that the Appeals Panel consider the record developed at the contested case hearing. See *also* Texas Workers' Compensation Commission Appeal No. 92131 (Docket No. redacted), decided May 15, 1992; Appeal No. 92151 (Docket No. redacted) decided July 10, 1992. As this panel cannot make a decision on the merits of a case without a complete record, we must remand for a suitable reconstruction of that portion of the hearing for which the tape is blank.

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

Lynda H. Nesenholtz
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Robert W. Potts
Appeals Judge