

APPEAL NO. 931037

This appeal is brought pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act) (formerly V.A.C.S., Article 8308-1.01, *et seq.*). A contested case hearing was held on September 20, 1993, in (city), Texas, with (hearing officer) presiding as hearing officer. The respondent (claimant) was not present at the hearing. The hearing officer determined that the claimant "was not exposed" to an occupational disease (tuberculosis) in the course and scope of his employment and that the appellant (carrier) waived its right to contest timely notice of the occupational disease when it failed to list this as a ground on its Notice of Refused Claim. See Section 409.022(b). He further found that the claimant did not have good cause for his failure to appear at the hearing. The decision of the hearing officer was distributed on October 28, 1993. On December 22, 1993, the appeals file does not show that claimant has filed a request for review pursuant to Section 410.202(a). In a conditional request for review, the appellant (carrier) challenges the hearing officer's factual finding and legal conclusion that it waived its right to raise the issue of timely notice. However, if the claimant does not timely appeal from the hearing officer's decision, the carrier requests that the Appeals Panel dismiss its request for review.

DECISION

Finding that the carrier was relieved of liability under the 1989 Act by the decision of the hearing officer below, and further finding that the decision has not been timely appealed by the claimant pursuant to the 1989 Act and applicable rules of the Texas Worker's Compensation Commission, we have determined that a review of the finding and conclusion disputed by the carrier is moot. Carrier's appeal is dismissed. The decision of the hearing officer has become final.

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Joe Sebesta  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Lynda H. Nesenholtz  
Appeals Judge