

APPEAL NO. 93228

This appeal arises under the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN. arts. 8308-1.01-11.10 (Vernon Supp. 1993) (1989 Act). A contested case hearing was held in (city), Texas, on January 14, 1993, before Mr W., hearing officer. The appellant, hereinafter claimant, appeals the hearing officer's determination that the claimant did not sustain an injury in the course and scope of his employment on (date of injury). No response was filed by the carrier.

DECISION

Because certain pieces of evidence, namely four photographs (Claimant's Exhibits 2, 3, and 4, and Carrier's Exhibit 1), are missing from the record of this case, despite all efforts by the Appeals Panel to locate this evidence, we reverse and remand to take necessary action to include this evidence in the record received by the Appeals Panel.

The 1989 Act requires this panel to consider the record developed at the contested case hearing before rendering its decision on appeal. Article 8308-6.42(a). We are unable to exercise our statutory obligation to review the decision below until a full and complete record is before us. See Texas Workers' Compensation Commission Appeal No. 91017, decided September 25, 1991.

This case accordingly is reversed and remanded for an expedited proceeding to allow the reconstruction of a complete record. A final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Article 8308-6.41. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

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Lynda H. Neseholtz  
Appeals Judge

CONCUR:

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Stark O. Sanders, Jr.  
Chief Appeals Judge

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Robert W. Potts  
Appeals Judge