

APPEAL NO. 93236

On February 28, 1993, a contested case hearing (CCH) was held in (city), Texas, with (hearing officer) presiding. The only issue was whether any portion of the fee awarded to Mr. F attorney herein, on November 18, 1992, was excessive. The hearing officer approved attorney's fees as previously awarded. Appellant, claimant herein, appeals asserting the order is not fair and alleging that the attorney should not ". . . be paid for something he did not do." The attorney did not file a response.

DECISION

We affirm the decision on attorney's fees.

Claimant appeared at the hearing and his testimony, as well as the hearing officer's questions, were translated from Spanish to English and English to Spanish. Claimant apparently hired the attorney on September 28, 1992, became dissatisfied with the attorney and subsequently discharged him. The attorney requested attorney's fees by filing an Application and Order for Attorney's Fees (TWCC-152). In the TWCC-152, the attorney listed three hours of services, which included a total of one hour for initial services including the initial interview, set up file and completing forms, .25 hours notice of representation and specific client and carrier conferences and telephone calls for 1.75 hours. Attorney is claiming \$125.00 an hour. The hearing officer found that \$125.00 an hour is a reasonable rate for an attorney in the Houston area. We do not disagree.

The claimant in his appeal, and at the hearing, simply alleges the fee is unfair and/or he is dissatisfied. Some of the dissatisfaction may be associated with the fact that claimant says he understood that the fee was to be deducted from weekly payments at a rate of less than \$20.00 a week but that the carrier was paying the attorney \$30.00 a week. Although claimant states "I dont (sic) think he should be paid for something he did not do" the hearing officer, on at least three occasions, asked claimant if the services listed on the fee affidavit had been performed. Claimant was evasive and failed to answer the question. On questioning by the attorney, claimant agreed he had been to the attorney's office, had dealt with the attorney's secretary who acted as an interpreter at conferences and had discussed a change of doctors with the attorney. The attorney offered evidence that he had prepared certain documents and had gotten permission for a change of treating doctors, which claimant had requested, before he was discharged. Claimant in general was very vague about the source of his dissatisfaction with the attorney saying only that the attorney's efforts "didn't result in anything positive" and that claimant expected a "better professional job." The hearing officer correctly noted that he (the hearing officer) could not rule on the quality of the services rendered and that he was principally interested in knowing if the listed services had been performed and if they met the guidelines listed on the TWCC-152. The requested fees were not in excess of the guidelines listed in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §152.4 (Rule 152.4).

The allegation raised by the claimant on appeal regarding the attorney's ex-clients

was not raised at the hearing, and even had it been we would have found, and do find, the allegation not relevant to the issue and beyond our, or the hearing officer's, jurisdiction to consider.

Determining that the hearing officer did not err in finding the attorney fee award of \$375.00 as reasonable, necessary and within the Rule 152.4 guidelines, we affirm the approval of attorney fees in the amount of \$375.00.

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Gary L. Kilgore
Appeals Judge