

APPEAL NO. 980147
FILED MARCH 4, 1998

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was originally scheduled for December 17, 1997. Appellant's (claimant) attorney was present, but claimant failed to appear at that proceeding. The hearing officer, by letter dated December 18, 1997, wrote the claimant that the Texas Workers' Compensation Commission (Commission) records indicated that claimant had been notified of the time, date and place of the CCH, that claimant had not appeared or contacted the Commission of his intentions and that claimant had 10 days to request that the CCH be reconvened to permit claimant to present evidence on the issues in dispute. The file contains envelopes indicating that claimant had "moved, left no address." The file does not reflect what, if anything, claimant's attorney stated. The hearing officer's decision reflects that claimant apparently failed to contact the Commission and the hearing officer closed the record on December 31, 1997, and entered a decision adverse to the claimant.

The benefit review conference (BRC) report, which is in evidence as Hearing Officer's Exhibit No. 1, indicates that the issue reported out of the BRC was "Is the Claimant entitled to supplemental income benefits (SIBS) for the second compensable quarter (09-04-97 through 12-03-97)." The hearing officer determined that claimant had failed to present any evidence that he is entitled to SIBS for the second compensable quarter (apparently placing the burden of proof on the claimant) and determined claimant was not entitled to SIBS for the second compensable quarter.

Claimant's attorney filed a form appeal that "the Great Weight of Evidence is to the contrary of the hearing officer's decision" and requests that we reverse that decision in favor of the claimant. Respondent (carrier) responds, briefly reciting claimant's failure to appear, and contending that, in light of the lack of any evidence, the hearing officer's decision is correct.

DECISION

Affirmed.

Because the record does not reflect any evidence to support claimant's (actually, the attorney's contention), the hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Elaine M. Chaney
Appeals Judge