

APPEAL NO. 990424

On January 25, 1999, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The issues at the CCH were: (1) whether the respondent (claimant) sustained a compensable injury on \_\_\_\_\_, and if so, what body parts were injured; and (2) whether claimant had disability resulting from the injury sustained on \_\_\_\_\_. The appellant (carrier) requests reversal of the hearing officer's decision that: (1) claimant sustained a compensable injury to his thoracic spine on \_\_\_\_\_; and (2) claimant had disability beginning on August 10, 1998, and continuing through November 21, 1998. Claimant requests affirmance.

DECISION

Reversed and remanded.

The evidence at the CCH consisted of the testimony of claimant and HN, who is the employer's safety manager and a witness for carrier, and exhibits. The hearing officer's decision lists claimant as a witness and the exhibits but does not list HN as a witness and states "none" with regard to carrier witnesses. The hearing officer's Statement of the Evidence discusses claimant's testimony and the medical exhibits but does not mention HN's testimony and does not state that all of the evidence was considered. Carrier complains that the hearing officer did not consider HN's testimony. We are unable to state that HN's testimony was considered. We reverse the hearing officer's decision and remand the case to the hearing officer for the hearing officer to consider HN's testimony and to reflect in his decision on remand that HN's testimony was considered.

Pending resolution of the remand, 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 Section 410.202. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Joe Sebesta  
Appeals Judge

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Alan C. Ernst  
Appeals Judge