

APPEAL NO. 000013

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 21, 1999, with the record closing on November 3, 1999. The issues at the CCH were injury, disability, and timely notice to the employer. The hearing officer's determinations were against the claimant on all of these issues.

On December 2, 1999, the hearing officer issued a Commission Order for Attorney's Fees (Order 1), covering services for the period from August 23, 1999, through October 28, 1999, approving 5.20 hours out of 9.20 hours requested, for a total approved fee of \$546.00 out of \$966.00 requested. The appellant (attorney) appeals, contending that the four hours which the hearing officer disapproved were within the guidelines and that the denial of this item was an abuse of discretion by the hearing officer. He asks that the Appeals Panel reverse the Order and approve the disputed item. The appeal file contains no response from the respondent (self-insured) or the claimant.

DECISION

We affirm Order 1.

We review attorney's fees cases under an abuse of discretion standard. Texas Workers' Compensation Commission Appeal No. 951196, decided August 28, 1995. On December 28, 1999, another Commission Order for Attorney's Fees (Order 2) was issued, approving 4.00 hours on October 20, 1999, for preparation for the CCH, a justification text having been submitted in connection with Order 2. The denied item in Order 1 was also for preparation for the CCH on the same date, and Order 1 approved 2.00 hours for drafting and filing pleadings/documents in connection with the CCH.

The same item apparently having been resubmitted a few days after the appeal was received and having been approved by Order 2, the matter is moot and we will not reverse Order 1 to approve an item that appears to have been approved in a subsequent submission.

Elaine M. Chaney
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Gary L. Kilgore
Appeals Judge