

APPEAL NO. 000527

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 November 18, 1999. The hearing officer considered the only issue at the CCH and determined that the appellant (claimant) did not have disability. Claimant appealed that decision on sufficiency grounds. Respondent (carrier) responded that the claimant did not meet her burden to prove disability. The Appeals Panel reversed the hearing officer's decision and order, concluding that the hearing officer's determination that the claimant did not have disability is against the great weight and preponderance of the evidence. The Appeals Panel remanded and stated that the hearing officer should make findings regarding the period of claimant's disability, after a hearing on remand. Texas Workers' Compensation Commission Appeal No. 992784, decided January 24, 2000. In a decision and order on remand, the hearing officer did not determine or make findings of fact regarding claimant's period of disability. Claimant again appealed, complaining that the hearing officer did not make findings on the period of disability. Carrier responded that the Appeals Panel should affirm the hearing officer's decision and order on remand.

DECISION

We reverse and render.

Claimant contends the hearing officer erred in determining that she did not have disability and in failing to make findings of fact regarding the period of disability. In our decision in this case, the Appeals Panel had already determined that the hearing officer's disability determination is against the great weight and preponderance of the evidence. Therefore, we again reverse the hearing officer's determination in the decision and order on remand that claimant did not have disability and we render a determination that claimant had disability. However, without findings on the fact issue of the period of disability, we are unable to make a determination regarding the period of disability. We cannot remand a second time. If the parties cannot resolve the issue regarding the period of disability, then they may use the dispute resolution process to resolve this issue.

We reverse the hearing officer's decision that claimant did not have disability and we render a determination that claimant had disability.

Judy L. Stephens
Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Tommy W. Lueders
Appeals Judge