

APPEAL NO. 001118

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 April 28, 2000. Based on the parties' agreement, the hearing officer determined that with respect to File No. _____, the respondent (claimant) sustained a compensable injury in the form of an occupational disease on _____; the appellant (carrier) is not relieved from liability under Section 409.002 because the claimant timely notified her employer pursuant to Section 409.001; and the claimant had disability from April 13, 1998, until October 19, 1998, and beginning June 14, 1999, through August 2, 1999; and that, with respect to File No. _____, the claimant did not sustain a compensable injury in the form of occupational disease on _____. The carrier appeals, urging that the hearing officer incorrectly added the issue of payment of interest on temporary income benefits, which was not agreed to by the parties, and requests that the language regarding the payment of interest be stricken. The appeals file does not contain a response from the claimant.

DECISION

Affirmed.

The only issue on appeal concerns the hearing officer's decision pertaining to File No. _____ which states "[T]emporary income benefits accrued but not paid are to be paid with interest in a lump sum." The agreement of the parties was made orally and in writing, and was silent as to the payment of interest on accrued income benefits.

In a similar case, Texas Workers' Compensation Commission Appeal No. 972376, decided January 2, 1998, we affirmed a hearing officer's decision which ordered the payment of interest on accrued but unpaid benefits, despite the absence of an agreement by the parties concerning the payment of interest. Section 408.064(a) provides that "[a]n order to pay income or death benefits accrued but unpaid must include interest on the amount of compensation due at the rate provided by Section 401.023." Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §126.12(b) (Rule 126.12(b)), effective December 26, 1999, states that carriers shall include simple interest in all payments for accrued but unpaid income benefits.

Based on the foregoing reasons, we affirm the decision and order of the hearing officer.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Tommy W. Lueders
Appeals Judge