

APPEAL NO. 002504

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 May 11, 2000. The issues at the CCH were whether the attorney fee orders approved by the Texas Workers' Compensation Commission (Commission) on May 10, 11, and 16, 2000, were excessive and, if so, the amount of attorney's fees that should be awarded for the dates of service set forth in the attorney fee applications submitted by Ms. T.

The hearing officer determined that the fees awarded on the subject attorney's fee orders were excessive and ordered the payment of a lesser amount of fees. The appellant/cross-respondent, Ms. T, appealed the hearing officer's decision, asserting that all of the time claimed and fees requested were reasonable and necessary and should have been awarded, and requested that we reverse and render an order in her favor for all attorney's fees requested. The respondent/cross-appellant (carrier) appealed, asserting that the hearing officer's decision was unsupported by the evidence and requesting that we reverse and render an order for a more reasonable fee.

DECISION

Affirmed.

Ms. T, attorney for the claimant, filed multiple fee requests for representing the claimant in disputes concerning the first and third quarter of supplemental income benefits. The Commission had determined that the claimant was entitled to the first quarter, a determination that the carrier disputed. The carrier then paid the second quarter, but disputed the third. The claimant ultimately prevailed on the first and third quarters, the fee requests were filed and partially approved, and the attorney fee orders were disputed. After a hearing during which evidence was presented on the fee requests, the hearing officer determined that Ms. T was entitled to most of the fees requested, but not all. Both Ms. T and the carrier appealed the hearing officer's decision.

The standard of review in attorney's fees cases is abuse of discretion. Texas Workers' Compensation Commission Appeal No. 92375, decided September 14, 1992. To obtain a reversal based upon an abuse of discretion, some showing must be made that the determination is arbitrary or without any basis in the record, that is, whether the hearing officer acted without reference to any guiding rules or principles. Morrow v. H.E.B., 714 S.W.2d 297 (Tex. 1986). Under Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence. She may believe none, part, or all of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993. Although another finder of fact could certainly have found differently, the record does not indicate that the hearing officer acted without reference to any guiding

rule or principles and we do not find that she abused her discretion. We affirm the decision and order of the hearing officer.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge