

APPEAL NO. 002685

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 30, 2000. The issues at the CCH were whether the employer made a bona fide offer of employment and whether the claimant had disability resulting from a _____, compensable injury. At the beginning of the CCH, during the formulation of stipulations, the parties made clear that the only period of disability under dispute ran from May 31 to August 8, 2000.

The hearing officer found that there was no bona fide offer made, and that the claimant had disability from May 31, 2000, to August 8, 2000, "and at no other time".

The claimant has appealed the inclusion of the phrase "and at no other time" in the conclusion of law and decision sentence which sets out the period of disability, pointing out that this unduly truncates previously agreed disability and determines matters beyond the period in issue. There is no response from the carrier.

DECISION

Reversed and rendered.

The record includes a copy of a benefit review conference agreement that the parties agreed that claimant had disability from March 7 through May 30, 2000. There was no issue or assertion that this agreement should be set aside. Because the Conclusion of Law No. 4 and the Decision paragraph of the decision as written by the hearing officer exceed the stipulated period of disability under dispute, we reverse and render a new Conclusion of Law No. 4, and Decision (second sentence), with respect to disability, as follows:

Due to her _____, injury, the claimant has had disability from May 31, 2000, to August 8, 2000, in addition to the period previously agreed.

The findings and conclusions of the hearing officer with respect to bona fide job offer were not appealed and are therefore final as written.

Susan M. Kelley
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge