

APPEAL NO. 002732

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 5, 2000. The hearing officer determined that respondent (claimant) sustained a compensable injury; that the injury did not occur while he was in a state of intoxication; and that claimant had disability from February 21, 2000, to the date of the hearing. Appellant (carrier) appealed these determinations on sufficiency grounds. Claimant responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We reverse and remand.

Carrier contends the hearing officer erred in determining that claimant's injury did not occur while he was in a state of intoxication. Carrier asserts that it is relieved of liability because claimant was intoxicated and that, therefore, claimant did not have disability. The applicable law is discussed in Texas Workers' Compensation Commission Appeal No. 002090, decided November 28, 2000. See *also* Section 401.013. Claimant's test results were positive for cocaine to the level of "16,000 ng/ml." In her decision, the hearing officer stated that the tests results indicated 1,600 nanograms per milliliter. We remand this case to the hearing officer to reconsider the facts as shown by the record.

We reverse the hearing officer's decision and order and remand for reconsideration of the issues in this case. Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

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Judy L. Stephens  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Robert W. Potts  
Appeals Judge