

APPEAL NO. 002974

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 30, 2000, a hearing was held. The hearing officer decided that the appellant (claimant) was not the employee of (company), had not sustained a compensable injury, and had not had disability resulting from her injury. The appellant (claimant) appealed, asserting that the hearing officer's decision is against the great weight of the evidence. The respondent (carrier) responded that the decision should be affirmed.

DECISION

Reversed and remanded for reconstruction of the record.

The record includes three audiotapes. Although evidence was adduced at the hearing and the evidence was recorded, the testimony of the claimant on the first side of the first tape (which was the only side of that tape utilized by the hearing officer) is often so faint as to be unintelligible. At other times, without explanation or apparent cause, the testimony will be clearly recorded. However, there are long gaps in the recording during which time testimony was given but cannot be heard. We, therefore, do not have a useable recording of the testimony adduced at the hearing or arguments of counsel. We reverse and remand the decision of the hearing officer for a reconstruction of the record.

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.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge