

APPEAL NO. 010961
FILED JUNE 18, 2001

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 April 6, 2001. With respect to the single issue before him, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 17th quarter. In its appeal, the appellant (carrier) argues that the hearing officer's determinations that the claimant made a good faith effort to look for work during the qualifying period for the 17th quarter, that his unemployment during the qualifying period is a direct result of his impairment from the compensable injury, and that he is entitled to SIBs for the 17th quarter are against the great weight of the evidence. The appeals file does not contain a response to the carrier's appeal from the claimant.

DECISION

We reverse and remand.

The first side of the first audiotape of the hearing is audible; however, when the tape is turned over, during the carrier's cross-examination of the claimant, the tape becomes garbled and unintelligible. Thus, the tape does not contain the full cross-examination or any redirect examination. The second audiotape begins with the hearing officer noting a possible problem with the audiotape, deciding to "wait and see if anyone wants to appeal it," and proceeding to closing argument. Accordingly, we reverse the hearing officer's decision and order and remand for reconstruction of the portion of the record that is missing, specifically cross-examination and any redirect examination of the claimant.

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.

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge