

APPEAL NO. 011170
FILED JULY 09, 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 May 2, 2001. With respect to the issues before him, the hearing officer determined that the appellant (claimant) sustained a compensable lumbar spine injury on _____; that the claimant had disability, as a result of his compensable injury, from October 21, 2000, through the date of the hearing; and, that the respondent (carrier) did not waive its right to dispute the compensability of the claimed injury. In his appeal, the claimant asserts error in the hearing officer's determination that the carrier did not waive its right to contest compensability. In its response to the claimant's appeal, the carrier notes that it did not appeal the hearing officer's injury and disability determinations and that they have thus become final pursuant to Section 410.169. As such, the carrier urges that the claimant's appeal be dismissed because it is moot.

DECISION

The hearing officer's decision and order have become final. Section 410.169.

Although the claimant's appeal is not so titled, it is in the nature of a conditional appeal. As noted above, the carrier did not appeal the determination that the claimant sustained a compensable injury. As such, the claimant is not aggrieved by the determination that the carrier did not waive the right to contest compensability. Even if we were to find that the hearing officer erred in making the challenged determination, which we do not find, our determination would not affect the outcome of the case. Accordingly, we dismiss the claimant's appeal.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge