

APPEAL NO. 011224
FILED JULY 02, 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 (CCH) was held on May 11, 2001. With respect to the issues before her, the hearing officer determined that the appellant/cross-respondent (claimant) did not sustain a compensable injury _____, and had no disability therefrom because he did not timely notify his employer of his injury pursuant to Section 409.001 of the 1989 Act; therefore, the carrier was relieved of liability under Section 409.002 of the 1989 Act. The claimant appeals and seeks reversal on the issue of his timely notice to his employer. The respondent/cross-appellant (carrier) appeals and seeks reversal with respect to the hearing officer's determinations that the claimant sustained an injury in the course and scope of his employment and that the claimant was unable to obtain or retain employment at wages equivalent to his preinjury wage as a direct result of his injury. The carrier also responds to the claimant's appeal and seeks affirmance as to the untimely notice determination. There is no response from the claimant to the carrier's appeal.

DECISION

Reversed and remanded.

The CCH was not stenographically recorded. We remand the case to the hearing officer because the audiotape from the CCH had considerable background noise and the persons speaking were largely unintelligible. Because the testimony is, for the most part, unintelligible, we reverse and remand for the reconstruction of the record, so that this panel can fully consider it as developed at the CCH. See Section 410.203(a). A transcript of the proceedings would have obviated the need for a remand.

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.

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge