

APPEAL NO. 011459
FILED AUGUST 6, 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 the record closing on June 6, 2001. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____; that the claimant had disability from December 4, 2000, through the date of the CCH; and that the appellant (carrier) waived the right to dispute compensability of the claimed injury by not contesting the injury in accordance with Section 409.021(c). The carrier appealed and the claimant responded, urging affirmance.

DECISION

Reversed and remanded.

It is clear that at the conclusion of the CCH held on May 11, 2001, the hearing officer directed the ombudsman assisting the claimant to get the doctor to interpret his notes so that the hearing officer could read them. The hearing officer stated:

And the case is going to be continued. I'll set another hearing date and notify y'all when that is to--either y'all can talk and decide whether you want to jointly take a statement from this [Mr. M] or whether we want to have him come down here and testify. If so, let me know and on the rescheduled date, I'll arrange for an interpreter.

The hearing officer further stated that the statement of Mr. M, an individual from whom the claimant purportedly obtained a statement, would not be admitted until "additional information" was obtained from him (Claimant's Exhibit No. 7). No closing statements were asked for or made, and the hearing officer concluded the CCH by stating, "Then we will stand adjourned for today. You'll receive written notices as to the next date of hearing."

On appeal, the carrier notes that at the conclusion of the CCH, the hearing officer, on his own motion, continued the case for the purpose of allowing the claimant to obtain rewritten medical records, and to obtain additional information and/or a statement from Mr. M. The carrier objected to the continuance and the objection was overruled. The carrier further asserts that it did not receive any written notice from the Texas Workers' Compensation Commission (Commission) regarding any rescheduling of this matter. On June 13, 2001, the carrier received the hearing officer's Decision and Order indicating that the record had closed on June 6, 2001.

Upon review of the record, it appears that no interpretation of the doctor's notes was made, and no further CCH was scheduled or held to clarify the admissibility of Claimant's Exhibit No. 7. It also appears that the hearing officer admitted the statement marked as

Claimant's Exhibit No. 7, despite stating that he would not do so without further proceedings. We remand the case for the hearing officer to reconvene the hearing to rule on the admissibility of Claimant's Exhibit No. 7, to allow the claimant to present into evidence the rewritten medical records, and to allow the parties to make closing arguments in compliance with the statements the hearing officer made at the end of the CCH held on May 11, 2001.

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 Commission's Division of Hearings, pursuant to Section 410.202 (amended June 17, 2001). See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

Thomas A. Knapp
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge