

APPEAL NO. 011551  
FILED AUGUST 16, 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 June 5, 2001. On the sole issue, the hearing officer determined that the respondent (claimant) was an employee of (company), for purposes of workers' compensation insurance, and not an exempt independent contractor. The appellant (carrier) filed a request for review, asserting that the hearing officer applied the wrong legal standard and the decision is not supported by sufficient evidence. The carrier also requests the Appeals Panel vacate the hearing officer's finding that the claimant sustained a work-related injury, asserting that the issue was not properly before the hearing officer. No response to the appeal was filed.

DECISION

Because a complete record of the hearing is not available for our review, we reverse and remand.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. See Texas Workers' Compensation Commission Appeal No. 91017, decided September 25, 1991. A significant portion of the audiotape recording of the hearing is unintelligible, making a full and proper review of the record virtually impossible. Accordingly, we reverse and remand this case for reconstruction of the record. See Texas Workers' Compensation Commission Appeal No. 960968, decided July 3, 1996.

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 (amended June 17, 2001). See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

We reverse the hearing officer's decision and order and remand for reconstruction of the record.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Michael B. McShane  
Appeals Judge