

APPEAL NO. 011833  
FILED SEPTEMBER 20, 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 June 6, 2001. The sole issue before the hearing officer was the date of maximum medical improvement (MMI). The hearing officer concluded that the respondent/cross-appellant (claimant herein) attained MMI on May 23, 2000, with an 18% impairment rating. Both the claimant and the appellant/cross-respondent (carrier herein) appeal, alleging that the hearing officer's decision was replete with factual errors. The carrier alleges such errors include not listing all the witnesses who testified, not listing all the exhibits admitted, misidentifying the gender of the claimant, misidentifying the employer, misstating the opinion of the designated doctor, discussing opinions of doctors not in evidence and who never examined the claimant, and failing to correctly identify the carrier's legal counsel. The carrier suggests that the hearing officer may have confused this case with another case and suggests we remand the case to the hearing officer. The claimant in his appeal states that the hearing officer misidentified the employer and failed to give presumptive weight to the opinion of the designated doctor that the claimant had not yet attained MMI.

DECISION

Reversed and remanded.

In light of the numerous factual discrepancies between the record and the decision of the hearing officer, we must assume that the hearing officer may have confused this case with another case. In any case, we feel that the hearing officer, as fact finder, needs to make factual determinations based upon the evidence in the record. To that end, we reverse the decision of the hearing officer and remand the case to her to resolve the issue before her based upon the evidence in the record.

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.

Finally, we note that since any decision on remand will, of necessity, be issued after June 17, 2001, the hearing officer should comply with the requirements of House Bill 2600 amending Section 410.164.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge