

APPEAL NO. 011894
FILED SEPTEMBER 17, 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 July 12, 2001. He determined that the respondent (claimant) sustained a compensable injury in the form of an occupational disease; that the date of injury is _____; that the appellant self-insured (carrier herein) is not relieved from liability under Tex. Labor Code Ann. § 409.002 because of claimant's failure to timely notify the employer of the injury; that carrier is not relieved from liability under Tex. Labor Code Ann. § 409.004 because of claimant's failure to timely file a claim for compensation with the Texas Workers' Compensation Commission (Commission) within one year of the injury; and that carrier has waived its right to dispute the compensability of the claimed injury by not contesting the injury in accordance with Tex. Labor Code Ann. § 409.021. On appeal, carrier contends that the hearing officer erred in determining that it is liable through carrier waiver. The appeals file contains no appeal and no response from claimant. Carrier filed what was labeled a response to an appeal from claimant. However, a reading of the response shows that it applies to a companion case; the record does not reflect that claimant filed an appeal in this case. We will not consider this response as it clearly is inapplicable to the case before us.

DECISION

We affirm.

The issue in this case involves an alleged error in the application of the law. The hearing officer determined that: (1) carrier did not dispute the compensability of the claimed injury within 60 days of receiving the notice thereof; (2) claimant did not file a notice of injury and claim for compensation with the Commission until after March 6, 2001; (3) carrier first received notice of the claimed injury on May 2, 2001; (4) the date carrier filed its Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) disputing the claimed injury with the Commission has not been established; and (5) carrier has waived the right to dispute compensability of the claimed injury by not contesting the injury in accordance with the Tex. Labor Code Ann. § 409.021.

The evidence did not show that carrier filed a TWCC-21 with the Commission, and carrier does not contend that it filed the TWCC-21 with the Commission. Accordingly, we cannot agree that the hearing officer erred in finding that carrier waived its right to dispute the compensability of the claim. Carrier contends that because claimant did not timely file a claim, it was not required to file a dispute and that the hearing officer erred in even addressing the carrier waiver issue. We disagree. See Texas Workers' Compensation Commission Appeal No. 982888, decided January 26, 1999. Claimant's failure to timely file a claim did not relieve carrier of liability because the carrier failed to contest the claim.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **LOUISIANA PACIFIC CORPORATION C/O SEDGWICK** and the name and address of its registered agent for service of process is

**PACIFIC EMPLOYER'S INSURANCE COMPANY
ATTN: MARCUS CHARLES MERRITT
6600 CAMPUS CIRCLE EAST, SUITE 200
IRVING, TEXAS 75063.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge