

APPEAL NO. 012202
FILED NOVEMBER 19, 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 August 20, 2001. The hearing officer determined that the respondent's (claimant) compensable injury included diskitis, severe degenerative disc disease at L4-5 and L5-S1, and lumbar instability. The appellant (carrier) appealed the determination on sufficiency grounds. The claimant urges affirmance.

DECISION

Because a complete record of the CCH 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 hearing. See Texas Workers' Compensation Commission Appeal No. 93809, decided October 25, 1993. The audiotape recording of the hearing and parties exhibits were not included in the record on appeal. In the absence of a complete record, we cannot review carrier's sufficiency of the evidence contentions. Accordingly, we 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 Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge