

APPEAL NO. 012540
FILED NOVEMBER 27, 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 18, 2001. She determined that the compensable injury sustained by respondent (claimant) on _____, extends to and includes his cervical spine, impingement syndrome, and a rotator cuff tear in his right shoulder, and that claimant had disability beginning on June 30, 2000, and continuing through the date of the hearing. Appellant (carrier) appealed, contending that these determinations are against the great weight and preponderance of the evidence and asserting that the hearing officer abused her discretion in denying carrier's request for a subpoena duces tecum. Claimant responded urging affirmance. This case was remanded for the sole purpose of obtaining the street address in Texas for carrier's registered agent in compliance with House Bill 2600, which amended Section 410.164, effective June 17, 2001. See Texas Workers' Compensation Commission Appeal No. 011846, decided September 27, 2001. After remand, carrier filed the registered agent information and the hearing officer issued the same decision on remand. Carrier again appealed, citing the same grounds. Claimant again responded urging that the Appeals Panel affirm the hearing officer's decision.

DECISION

We affirm.

We have reviewed the complained-of determinations regarding extent of injury and disability and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Carrier contends that the hearing officer abused her discretion in denying its request for a subpoena duces tecum for claimant's payroll records from (Company A), where claimant had worked after a layoff from his employer. Carrier sought this information as relevant to the disability issue. The hearing officer explained during the hearing that she found that no good cause existed for granting the request. The record reflects that the basis for this finding was that carrier, while referring to Company A in the opening paragraph of its motion, went on to state in the second paragraph that it was making the request because it "has learned that the Claimant began working for [Company B] after the incident in question." The hearing officer explained that at the time she ruled on the motion, in an order dated May 16, 2001, she was unable to determine from the face of the motion what relationship, if any, existed between Company A and Company B. Carrier explained at the hearing that the insertion of the name of Company B in the motion was an inadvertent error. Carrier did not move for a continuance.

The standard of review for a finding of no good cause for refusing to issue the subpoena, is one of abuse of discretion. Given that carrier's motion was unclear on its face due to the clerical error and because claimant testified at the hearing as to his employment status subsequent to the date of injury, we find no abuse of discretion.

We affirm the hearing officer's decision and order.

According to information provided after the remand, the true corporate name of the insurance carrier is **RELIANCE NATIONAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**TIMOTHY J. McGUIRE
633 N. STATE HIGHWAY 161
IRVING, TEXAS 75038.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge