

APPEAL NO. 012625  
FILED DECEMBER 4, 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 September 26, 2001. The appellant (claimant) did not appear at the September 26, 2001, CCH. The hearing officer sent a letter to the claimant offering an opportunity to show cause why she did not appear at the September 26, 2001, CCH. The claimant did not respond within the 10-day time period specified in the letter. On October 12, 2001, the hearing officer issued a decision and order determining that the claimant did not sustain a compensable injury on \_\_\_\_\_; that because the claimant did not sustain a compensable injury, she did not have disability; and that the respondent (carrier) is not liable for the payment of accrued benefits under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 124.3 (Rule 124.3) for the period resulting from any failure to dispute or initiate the payment of benefits within seven days of the date it received written notice of the claimant's alleged injury. The claimant appealed, asserting she is entitled to a resetting of the CCH. The carrier responded, urging affirmance.

DECISION

Affirmed.

The claimant contends that the hearing officer erred in issuing a decision and order and asks for an additional opportunity to show cause for her failure to appear at the September 26, 2001, proceeding, and to present evidence in this case. The record contains a letter dated September 26, 2001, from the hearing officer to the claimant. The letter informs the claimant that an adverse decision has been drafted against her, and that she should contact the Texas Workers' Compensation Commission (Commission) within 10 days of the date of the letter to request that the CCH be reconvened. The letter further informs the claimant that if she contacts the Commission within 10 days, she will be allowed to present evidence on the issue, and to show good cause why she failed to attend the September 26, 2001, CCH. The claimant does not deny receipt of the letter on appeal.

On appeal, the claimant asserts that her hearing should have been removed from the docket based upon a letter dated August 24, 2001, sent to the Commission by her attorney explaining that he was unable to attend the September 26, 2001, CCH due to a scheduling conflict. At best, the letter can be equated to a Motion for Continuance. Since no continuance had been granted pursuant to Rule 142.10 prior to the September 26, 2001, CCH, it was unreasonable for the claimant to assume the hearing would be continued and, at a minimum, she should have appeared at the CCH and reurged her motion. Additionally, no explanation is given as to why the claimant did not respond to the 10-day letter which was sent to her by the hearing officer after she failed to appear at the CCH.

Finding no reversible error, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE** and the name and address of its registered agent for service of process is

**ROBERT PARNELL  
8144 WALNUT HILL LANE  
SUITE 1600  
DALLAS, TEXAS 75231-4813.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge