

APPEAL NO. 013168
FILED FEBRUARY 7, 2002

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 begun on December 4, 2001. The parties identified three issues which had been sent to the CCH from a benefit review conference (BRC) held on October 3, 2001: Whether the appellant (claimant) sustained a compensable injury on _____; Whether the respondent (carrier) relieved of liability because of the claimant's failure to timely notify the employer of an injury; and whether the claimant had disability, and, if so, for what periods. Claimant's Exhibit Nos. 1 through 12 were admitted and Carrier's Exhibit Nos. 1 through 13 were admitted. The hearing officer also admitted Hearing Officer's Exhibit Nos. 1 through 5. The parties stipulated to venue, employment, and workers' compensation insurance coverage. The parties also stipulated that the issues in dispute needed to be returned to a BRC. The hearing officer then went ahead and prepared a Decision and Order which essentially summarized the events that occurred at the short CCH session. The claimant appeals, taking issue with the way the hearing officer stated Finding of Fact Nos. 5 and 6. The carrier responds, asserting that the evidence is sufficient to support those findings.

DECISION

We reverse the purported Decision and Order of the hearing officer and render a decision that the hearing officer's Decision and Order is void.

Sections 410.002, 410.151 and 410.168 apply to this case and the relevant portions are set forth below:

Section 410.002. LAW GOVERNING LIABILITY PROCEEDINGS. A proceeding before the commission [Texas Workers' Compensation Commission] to determine the liability of an insurance carrier for compensation for an injury or death under this subtitle is governed by this chapter.

Section 410.151. CONTESTED CASE HEARING; SCOPE.

- (a) If arbitration is not elected under Section 410.104, a party to a claim for which a [BRC] is held or a party eligible to proceed directly to a [CCH] as provided by Section 410.024 is entitled to a [CCH].
- (b) An issue that was not raised at a [BRC] or that was resolved at a [BRC] may not be considered unless:
 - (1) The parties consent; or

- (2) if the issue was not raised, the commission determines that good cause existed for not raising the issue at the conference.

Section 410.168. DECISION.

- (a) The hearing officer shall issue a written decision that includes:
 - (1) findings of fact and conclusions of law;
 - (2) a determination of whether benefits are due; and
 - (3) an award of benefits due.
- (b) [effective for a decision regarding a claim for benefits that is issued on or after September 1, 1999] The decision may address accrued benefits, future benefits, or both accrued benefits and future benefits.
- (c) [effective for an interlocutory order regarding a claim for benefits that is issued on or after September 1, 1999] The hearing officer may enter an interlocutory order for the payment of all or part of medical benefits or income benefits. The order may address accrued benefits, future benefits, or both accrued benefits and future benefits. The order is binding during the pendency of an appeal to the appeals panel.

The statutory purposes of CCHs are limited to the resolution of disputed issues and the determination of whether benefits are due. The hearing officer in this case started a hearing, but the parties agreed that it was more appropriate to have an additional BRC on the issues than to continue with a CCH. At that point, it was appropriate for the hearing officer to cancel the CCH in order to allow the parties to initiate further BRC proceedings. The Decision and Order in this case is void because the hearing officer resolved no issues and did not determine whether benefits should be awarded. The parties may proceed with the dispute resolution process at a BRC, as they have agreed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**C T CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Susan M. Kelley
Appeals Judge