

APPEAL NO. 021360
FILED JULY 15, 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 was held on April 18, 2002. The hearing officer determined that respondent (claimant) sustained a compensable injury and that he had disability from September 18, 2001, through October 18, 2001. Appellant (carrier) appealed these determinations on sufficiency grounds. Carrier also contends that the hearing officer abused her discretion in excluding certain exhibits and also asks for a remand so that evidence offered for the first time on appeal might be considered by the hearing officer. Claimant responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

We have reviewed the complained-of determinations 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 the hearing officer abused her discretion in excluding several depositions. Even assuming, without deciding, that this was error, we conclude that the exclusion would not be reasonably calculated to cause the rendition of an improper decision in this case, so the exclusion was not reversible error. See Hernandez v. Hernandez, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ). Carrier attached to its brief for the first time on appeal some photographs and documents it contends show that claimant was married to Ms. J and that they had a son, Mr. S. Written statements from Ms. J and Mr. S were admitted at the hearing. Claimant denied that he knew Ms. J or Mr. S and carrier now seeks a remand to admit the rebuttal documents it attached to its brief. We conclude that carrier has not shown that the evidence attached to its brief is so material that it would probably produce a different result upon a new hearing. Texas Workers' Compensation Commission Appeal No. 93536, decided August 12, 1993. We decline to remand in this case.

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Roy L. Warren
Appeals Judge