

APPEAL NO. 021955  
FILED AUGUST 21, 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 June 12, 2002. The hearing officer determined that appellant (claimant) did not sustain a compensable injury and that he did not have disability. Claimant appeals on sufficiency grounds. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer's decision.

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, resolved any inconsistencies in the evidence, 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).

Claimant contends the hearing officer erred in failing to add the issue of carrier waiver. The record does not reflect that claimant raised this at the April 12, 2002, benefit review conference (BRC) or in a response to the BRC report. After a BRC, an issue may only be added for good cause or with the consent of the parties. Section 410.151(b). The record does not reflect that carrier consented. On appeal, claimant contends that he had good cause to add the issue because on June 6, 2002, the Texas Supreme Court issued its decision in Continental Casualty Company v. Downs, No. 00-1309 (June 6, 2002) (Motion for rehearing pending). Claimant appears to contend that he could not have requested that a waiver issue be added until after the Texas Supreme Court issued its Downs decision. However, there was nothing that prevented claimant from timely requesting the addition of a waiver issue before June 6, 2002. We do not find error in the hearing officer's refusal to add the issue of carrier waiver.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY**, and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Robert E. Lang  
Appeals Panel  
Manager/Judge

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Robert W. Potts  
Appeals Judge