

APPEAL NO. 022039
FILED SEPTEMBER 23, 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 held on July 3, 2002, with the record closing on July 10, 2002 (to allow the parties to submit written closing arguments). The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that the claimant had disability as a result of the compensable injury from April 17 through July 30, 2001; and that the appellant (carrier) is not relieved from liability under Section 409.002 because of a failure by the claimant to timely notify his employer of the injury pursuant to section 409.001. The carrier appeals, asserting that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be manifestly unjust. There is no response in the file from the claimant.

DECISION

Because a complete record of the CCH is not available for our review, we reverse and remand.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. See Texas Workers' Compensation Commission Appeal No. 93809, decided October 25, 1993. The second audiotape recording of the hearing was stopped at side A, approximately 260 on the counter, for a recess to look for a report, and the tape contains nothing further on the remainder of Side A and nothing at all on Side B. Some testimony from the carrier's second witness may be missing, and all of the testimony from the carrier's third and fourth witnesses is missing. We can discern from the case file that the hearing officer permitted the parties to provide written closing arguments, but we have no explanation provided for why that was done. In the absence of a complete record, we cannot review the carrier's sufficiency-of-the-evidence contentions. Accordingly, we remand this case for reconstruction of the record. See Texas Workers' Compensation Commission Appeal No. 960968, decided July 3, 1996.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Judge

CONCUR:

Veronica Lopez
Appeals Judge

Robert W. Potts
Appeals Judge