

APPEAL NO. 022853
FILED JANUARY 3, 2003

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 August 5, 2002. Following the hearing, the appellant (carrier's attorney) submitted a request for attorney's fees. The hearing officer issued a Texas Workers' Compensation Commission Order for Attorney's Fees (Order), covering services for the period from August 1 through August 13, 2002, approving 4.80 hours out of 11.00 hours requested, for a total approved fee of \$398.50 out of \$1,111.50 requested (claimed expenses of \$276.09 were approved for the full amount). The carrier's attorney appeals the determination. No response was filed from either respondent 1 (carrier) or respondent 2 (claimant).

DECISION

Affirmed.

The Order reflects that the only attorney's fees denied by the hearing officer were 6.2 hours requested to "attend proceeding" on August 5, 2002. The Order states that these fees were denied for "multiple reasons." The Order reflects that the hearing officer did approve one hour of attorney fees to "attend proceeding." Also, computer records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer entered a review log text stating the reason for denial as follows:

6 HOURS FOR HEARING ON 8-05-02 DENIED AS HEARING LASTED ONLY FOR 1 HOUR THE REQUEST FOR 1 HOUR TO ATTEND PROCEEDING ON 8-05-02 WAS APPROVED.

In his request for review the carrier's attorney states as follows:

Carrier will show that Attorney Long's travel time for the 8/5/02 Contested Case Hearing was incorrectly coded as formal resolution time.

However, no further explanation or evidence is presented concerning this incorrect coding or its source. If the carrier's attorney is attempting to say that the Commission miscoded his request for attorney's fees then it would be incumbent on him to show that he correctly requested that these fees be granted under the proper category. He has not done so.

The hearing officer did not err in awarding attorney's fees in the amount of \$398.50. We review a hearing officer's award of attorney's fees under an abuse-of-discretion standard. Texas Workers' Compensation Commission Appeal No. 92481, decided October 21, 1992 (Unpublished). In determining whether there has been an abuse of discretion, the Appeals Panel looks to see whether the hearing officer acted

without reference to any guiding rules or principles. Texas Workers' Compensation Commission Appeal No. 951943, decided January 2, 1996, citing Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). The guiding principle upon which the hearing officer based her decision in the present case was that the carrier's attorney was limited to fees for attending the CCH to the actual time spent at the CCH. In view of the record and the applicable law, we cannot conclude that the hearing officer abused her discretion in limiting the award of attorney's fees to the amount of \$398.50.

The decision and order of the hearing officer are affirmed.

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

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

Gary L. Kilgore
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Panel
Manager/Judge

Edward Vilano
Appeals Judge