

APPEAL NO. 030114
FILED FEBRUARY 27, 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 October 16, 2002. Following the CCH, the hearing officer issued a Texas Workers' Compensation Commission (Commission) Order for Attorney's Fees dated December 9, 2002 (the attorney's fees order), in which the hearing officer approved \$2,179.25 of the \$2,510.00 in attorney's fees requested by the appellant (attorney) who represented respondent 1 (self-insured). The attorney appealed the attorney's fees order. No response was received from the self-insured or respondent 2 (claimant).

DECISION

Affirmed.

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 152.4(b) (Rule 152.4(b)) provides that an attorney may request and the Commission may approve a number of hours greater than those allowed by the guidelines in Rule 152.4, if the attorney demonstrates to the satisfaction of the Commission that the higher fee was justified based on Sections 408.221 and 408.222. Rule 152.3(b) provides in part that the Commission shall deny any portion of the fee which exceeds the guidelines and which is not adequately justified. The attorney contends that the hours requested that exceeded the guidelines and were not approved by the hearing officer were justified in a justification text that was provided with the fee application and also asserts that the justification text is attached to the appeal. In a review log text in the Commission's Attorney Fee Processing System, the hearing officer noted that no justification text was provided to justify the hours that exceeded the guidelines. In addition, there is no justification text attached to the appeal. The only document attached to the appeal is a copy of the attorney's fees order. Under these circumstances, we cannot conclude that the attorney has shown an abuse of discretion in the amount of attorney's fees that were approved by the hearing officer.

We affirm the hearing officer's attorney's fees order.

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Roy L. Warren
Appeals Judge