

APPEAL NO. 030716  
FILED APRIL 29, 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 was held on March 3, 2003. The hearing officer determined that appellant (claimant) did not sustain a compensable injury and that she did not have disability. Claimant appealed these determinations on sufficiency grounds. Claimant also complains regarding the hearing officer and the assistance of the ombudsman. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Claimant attached documents to her brief, some of which were not admitted at the hearing. Documents submitted for the first time on appeal are generally not considered unless they constitute admissible, newly discovered evidence. One document was dated after the date of the hearing, but was cumulative of other similar evidence. Admission of this evidence on remand would not result in a different decision. Regarding the other documents not admitted at the hearing, claimant did not explain why she was unable to obtain these documents at an earlier time. We conclude that these attachments to claimant's appeal do not meet the requirements of newly discovered evidence necessary to warrant a remand. We conclude that the admission of the documents on remand would not result in a different decision. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.- Dallas 1988, no writ).

Claimant complains that the hearing officer did not consider the evidence. There is nothing in the record to show that the hearing officer did not consider the evidence and we perceive no error. Claimant complains of the assistance of the ombudsman and that she was not provided with an attorney. The record reflects that claimant handled most matters at the hearing and discussed procedural matters with the hearing officer, though she was assisted by an ombudsman. She stated that she understood that the ombudsman is not an attorney and that she had the right to be represented by an attorney. We note that the Texas Workers' Compensation Commission was not required to provide claimant with an attorney. The hearing officer permitted claimant to present evidence.

As we have noted in the past, an ombudsman is available to assist a claimant, not to be the claimant's legal representative. A claimant is still responsible for the presentation of his or her case and for insuring that the evidence considered appropriate and persuasive is presented to the hearing officer. See Texas Workers' Compensation Commission Appeal No. 931006, decided December 17, 1993. We perceive no error.

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 supported by the record and 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).

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE 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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Daniel R. Barry  
Appeals Judge

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Edward Vilano  
Appeals Judge