

APPEAL NO. 032049
FILED SEPTEMBER 17, 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 June 27, 2003. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury, including a compensable right wrist injury that arose out of and in the course and scope of employment with the employer on _____, or any other date; that the claimant did not sustain a compensable injury, including a compensable right wrist injury in the form of an occupational disease, due to repetitious traumatic activities that arose out of and in the course and scope of employment with the employer on _____, or any other date; that the claimant did not have disability beginning on April 1, 2003, and continuing through the present date of this hearing on June 27, 2003, or for any other time period; that the respondent (carrier) is relieved of liability under Section 409.002 because of the claimant's failure to timely notify the employer pursuant to Section 409.001 of his claimed injury of _____, or any other date; that the claimant did not have good cause for failing to timely report his claimed injury of _____, or any other date; and that the carrier did not waive its right to contest compensability of the claimant's injury because the carrier timely contested the claimant's claimed injury in accordance with Sections 409.021 and 409.022. The claimant appeals on factual sufficiency grounds and asserts that evidence was improperly admitted without objection by the ombudsman; he urges reversal. There is no response on file from the carrier.

DECISION

Remanded for reconstruction of the record.

The CCH was recorded by audiotape recording and there was no court reporter. Both Audiotapes 1 and 2 were blank on both sides A and B. Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. In that we are unable to discern what was being said, we cannot review the claimant's sufficiency of the evidence contentions. Accordingly, we remand this case for such other action, which will allow us to review the record.

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 **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge