

APPEAL NO. 032302
FILED OCTOBER 22, 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 12, 2003. The following issues were before the hearing officer: (1) What is the date of injury? (2) Did the respondent (claimant) sustain a compensable injury? (3) Did the claimant have disability resulting from the claimed injury, and if so, for what period? and (4) Is the appellant (carrier) relieved from liability under Section 409.002, because of the claimant's failure to timely notify the employer of an injury pursuant to Section 409.001? The hearing officer determined that (1) the claimant asserted two injuries with separate dates of injury; and (2) a remand to the benefit review conference (BRC) level is appropriate, so an additional claim can be established and the issues further developed. The carrier appeals, asserting that the hearing officer's remand for a BRC was improper. The claimant did not file a response.

DECISION

Reversed and remanded.

The hearing officer erred in remanding these proceedings to a BRC. We have previously held that a hearing officer has no authority under the 1989 Act to "remand" a case to a BRC after issues have been set forth in a BRC report and the case has been convened for a CCH. Texas Workers' Compensation Commission Appeal No. 972285, decided December 22, 1997; Texas Workers' Compensation Commission Appeal No. 002281, decided November 8, 2000; *see also* Texas Workers' Compensation Commission Appeal No. 94416, decided May 24, 1994 (noting that once a dispute goes to a CCH, the dispute should be resolved at that stage of the dispute resolution). Accordingly, the hearing officer's decision is reversed and remanded for resolution of the issues presented.

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 **ST. PAUL FIRE & MARINE INSURANCE 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.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge