

APPEAL NO. 033260  
FILED FEBRUARY 6, 2004

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 November 12, 2003. The hearing officer resolved the disputed issues by deciding that respondent 2 (claimant) sustained a compensable injury on \_\_\_\_\_, and that he has disability beginning on August 3, 2003, and continuing through the date of the hearing. On November 25, 2003, the hearing officer issued a Texas Workers' Compensation Commission (Commission) Order for Attorney's Fees (the attorney's fee order) to be paid pursuant to Section 408.147(c) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 152.1 (Rule 152.1), in which the hearing officer approved \$1500.50 of the \$3358.32 in total attorney's fees and expenses requested by the appellant (attorney), who represented respondent 1 (carrier). \$1437.50 in fees and \$63.00 in expenses were approved. The attorney appealed the attorney's fees order. No response was received from the claimant or the carrier.

DECISION

We affirm in part and reverse and render in part.

The attorney contends that the hearing officer erred in awarding attorney's fees in the amount of \$1,437.50. 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. 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). Section 408.222 and Rules 152.1 and 152.3 through 152.5 govern fees paid to a carrier's attorney. 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 \$1,437.50.

The attorney argues that she submitted a justification text and the only reason given for the reductions in attorney's fees was "Ex Guidelines/Unreasonable." However, the Attorney Fee Processing System indicates that the hearing officer did enter a log text explaining her decision to deny the fees in excess of the guidelines. The hearing officer noted that the hearing only involved the straightforward issues of compensability and disability and it was neither legally nor factually complex as to warrant exceeding the Commission guidelines. The attorney additionally asserts that the hearing officer failed to allow all of the permissible fees within the guidelines. Upon review of the attorney's fee order and Rule 152.4, we cannot agree with this assertion regarding the fees, though the expenses will be discussed below.

The hearing officer abused her discretion in denying the attorney reimbursement of her total expenses. The attorney requested \$30.00 for the cost of records, which was denied for the stated reason that the service provided was unclear. The attorney requested \$78.32 for travel expenses to the hearing of which \$63.00 was awarded. The hearing officer cut the amount of travel expenses for the stated reason that the requested amount exceeded the guidelines. Both of these expenses are allowable under Rule 152.5, and the hearing officer failed to specifically explain why she disallowed the cost of the records and why she cut the travel expenses. As such, we render a decision that the attorney is entitled to \$108.32 for expenses as opposed to the \$63.00 awarded by the hearing officer.

We affirm the hearing officer's award of \$1,437.50 in attorney's fees. The hearing officer's award of \$63.00 for expenses is reversed and a new decision is rendered that the attorney is entitled to \$108.32 in expenses for a total fee award of \$1,545.82.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200  
IRVING, TEXAS 75063.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge