

APPEAL NO. 040156  
FILED MARCH 15, 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 (CCH) was held on December 17, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_, and that the claimant had disability as a result of his compensable injury from \_\_\_\_\_, through the date of the CCH. The appellant (carrier) appealed, contending that the evidence is insufficient to support the hearing officer's determinations. The claimant asserts that sufficient evidence supports the hearing officer's decision.

DECISION

Reversed and remanded for partial reconstruction of the CCH record.

Section 410.203(a)(1) provides that the Appeals Panel shall consider the record developed at the CCH. The CCH was recorded on audiocassette and on audio compact disc (CD). The appeal file contains the exhibits introduced at the CCH. The opening statements, the claimant's testimony, and the closing arguments are preserved in the audio recordings (side A of the first audiocassette, side A of the second audiocassette, and the first CD). However, the testimony of the carrier's witness, (AB), is not saved on the audio recordings. Specifically, side B of the first audiocassette is blank, and the second CD is also blank. Consequently, since Section 410.203(a)(1) directs that the Appeals Panel is to consider the CCH record, we must remand the case to the hearing officer to reconstruct the CCH record so as to include AB's testimony.

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, as amended effective June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of time in which a request for appeal or a response must be filed.

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

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

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Robert W. Potts  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Edward Vilano  
Appeals Judge