

APPEAL NO. 041943
FILED SEPTEMBER 27, 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 July 1, 2004. The hearing officer determined that appellant (claimant) did not sustain a compensable injury; that she did not have disability; and that respondent (carrier) is relieved of liability because claimant "willfully intended and pretended to injure herself." Claimant appealed these determinations on sufficiency grounds. Claimant also contends that the hearing officer abused her discretion in excluding certain evidence. The file does not contain a response from carrier.

DECISION

We reverse and remand.

We remand for two reasons. Because we are already reversing and remanding for reconstruction of the record, we also remand for the hearing officer to make an additional determination. The hearing officer should make a determination regarding whether her determinations with regard to compensability and disability would have been different if the statement of Ms. I had been admitted and considered. The credibility of such statement is, of course, for the hearing officer to consider.

We also remand because the record is incomplete. The record of the proceedings and the evidence considered by the hearing officer have not been received, though they were requested. Because there is no record to review pursuant to Section 410.203, we must reverse and remand.

The Appeals Panel cannot render an informed decision in this case on the merits of the appeal and response without a complete record of the proceedings, evidence, and decision. Accordingly, the decision and order of the hearing officer are reversed and the case is remanded for reconstruction of the record or the forwarding of the hearing record if it can be located. At such time, the parties should be advised that a new decision has been rendered or the decision has been reissued and that any appeal or response must be reasserted and filed in the case, if desired. Texas Workers' Compensation Commission Appeal No. 961101, decided July 19, 1996.

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.

According to information provided by carrier, 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 OLIVER, PRESIDENT
221 WEST 6TH STREET, SUITE 300
AUSTIN, TEXAS 78701-3403.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge