

APPEAL NO. 051892  
FILED SEPTEMBER 27, 2005

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 July 14, 2005. At issue were appellant's (attorney) attorney's fees in a supplemental income benefits (SIBs) case where the claimant prevailed. (See Section 408.147(c)).

Several Texas Department of Insurance, Division of Workers' Compensation (Division) orders for attorney's fees (sequence Nos. 2 through 6) had been approved on May 25 and May 26, 2005. The carrier disputed three billings which it contended were excessive or duplications. The hearing officer determined that attorney fees in the amount of \$390.00, \$940.00, \$600.00 and \$430.00 (sequence Nos. 2 through 5) were not excessive and that attorney fees in the amount of \$345.00 (sequence No. 6) "was excessive and should be \$205.00." The hearing officer's Decision read that if the claimant's attorney "has been paid more than the total of \$2385.00 fees approved by this Decision and Order," the claimant's attorney is ordered to reimburse the carrier for the excess amount.

The claimant's attorney appealed findings of fact regarding the carrier's name, registered agent address and that the carrier had delivered to the claimant (claimant's attorney) a single document (Insurance Carrier Information Sheet) "which is admitted into evidence as Hearing officer's Exhibit 2." The claimant's attorney also requested that the hearing officer's order (Decision portion) be reformed or modified to order the claimant's attorney to reimburse the carrier \$140.00 of attorney's fees found to be excessive. The file does not contain a response from either the carrier or the claimant.

DECISION

The hearing officer's Decision is reversed and a new decision rendered.

Regarding the appeal of specific findings that the Carrier Information sheet had not been delivered to the claimant as found by the hearing officer, our review of the record indicates that at the CCH the claimant's attorney appeared by telephone, that the carrier and hearing officer were present in the hearing room, that the carrier tendered an Insurance Carrier Information sheet which was marked and admitted as "H.O. Ex 1" and that the hearing officer stated to the claimant's attorney "we'll get you a copy." This apparently was not done. The Carrier Information sheet was sent to the claimant's attorney by fax on September 21, 2005, and is included in this decision.

Regarding the \$140.00 of attorney fees found by the hearing officer to be excessive in sequence No. 6, the claimant's attorney's appeal specifically states that the appeal "does not attempt to argue that the findings was incorrect . . . [but that] the totals that are then ordered to be paid back do not equal what is actually supposed to be paid back." We agree. The attorney fees found not to be excessive were \$390.00,

\$940.00, \$600.00, and \$430.00 (sequence No. 2 through 5) and the reduced amount of \$205.00 for sequence No. 6. This amount totals \$2565.00, however the hearing officer's Decision states that amounts over "\$2385.00 fees approved by this Decision and Order" are to be reimbursed to the carrier. We reverse the Hearing Officer's Decision that amounts paid over \$2385.00 are to be reimbursed to the carrier and render a new Decision that if the claimant's attorney has been paid more than a total of \$2565.00 (the \$140.00 found to be excessive in sequence No. 6), the claimant's attorney is ordered to reimburse by mailing or personally delivering a check to the Carrier for the excess amount within 15 days of receiving this decision.

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

**CT CORPORATION  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Margaret L. Turner  
Appeals Judge