

APPEAL NO. 090686
FILED JULY 8, 2009

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing (CCH) was held on April 14, 2009. With regard to (Docket No. 1), the hearing officer resolved the sole disputed issue by deciding that the compensable injury of _____, extends to a lumbar sprain/strain, but does not extend to bilateral lumbar radiculopathy and myospasm. With regard to (Docket No. 2), the hearing officer resolved the disputed issues by deciding that: (1) the compensable injury of _____, extends to a lumbar sprain/strain, but does not extend to lumbar disc disease with protrusion of the lumbar disc at multiple levels, spinal stenosis of the lumbar spine, bilateral S1 radiculopathy and lumbar radiculopathy; and (2) the appellant (claimant) had disability resulting from the injury sustained on _____, from August 20 through December 7, 2007, but at no other times.

The claimant appealed the hearing officer's determinations that were adverse to the claimant on the issues of extent of injury in both Docket Nos. 1 and 2. Additionally, the claimant contended that the hearing officer denied him an opportunity to present testimonial and documentary evidence and to ask questions at the CCH. The respondent (carrier) responded, urging affirmance. Additionally, the carrier challenged the claimant's factual recitation concerning the actions of the hearing officer, noting that the claimant was assisted by an ombudsman at the CCH and given an opportunity to fully develop his case.

DECISION

We reverse and remand this case to the hearing officer for reconstruction of the CCH record.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. The CCH was recorded on two compact discs which were both inaudible. The appeal file does not indicate that a court reporter was present and the file does not contain a transcript or other recording of the proceedings. Consequently, we remand the case for reconstruction of the CCH record.

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 Department of Insurance, Division of Workers' Compensation 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 Appeals Panel Decision 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge