

APPEAL NO. 092074
FILED JANUARY 27, 2010

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 November 30, 2009. The hearing officer determined that: (1) the respondent (claimant) sustained a compensable repetitive trauma injury; (2) the claimant does have disability from September 9, 2009, through the date of the CCH; (3) the appellant (self-insured) is not relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001; and (4) _____, is the date of injury pursuant to Section 408.007, the date the employee knew or should have known the disease may be related to the employment.

The self-insured appealed the hearing officer's determinations on the compensable repetitive trauma injury, disability and timely notice issues. The claimant responded, urging affirmance.

DECISION

Reversed and remanded for reconstruction of the record.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. The CCH was recorded on one compact disc (CD). The CD indicated it contained one track which was approximately one hour and ten minutes in length. The CD has a buzzing and thump noise and is completely inaudible. The file indicates that there was no court reporter and the file does not contain a transcript or a tape recording of the CCH proceeding. Consequently, we reverse and remand this case to the hearing officer for reconstruction of the CCH record. See Appeals Panel Decision (APD) 060353, decided April 12, 2006.

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 APD 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**MZ, SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Margaret L. Turner
Appeals Judge