

APPEAL NO. 131336
FILED JULY 18, 2013

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 May 1, 2013, and recessed to and completed on May 2, 2013, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the employer did not make a bona fide job offer of employment (BFOE) to the respondent (claimant) entitling the appellant (carrier) to adjust the post-injury weekly earnings; and (2) the claimant did have disability beginning on August 14, 2012, and continuing through the date of the CCH.

The carrier appealed, disputing the hearing officer's determinations of BFOE and disability. The claimant responded, urging affirmance of the disputed determinations.

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 appeal file in this case contains four compact discs (CD). The CDs are labeled 1 through 4. Review of CDs 1 and 2 show a recording of the May 1, 2013, CCH. At the end of CD 2, the hearing officer states that the hearing will be recessed and continued for another date. CDs 3 and 4 are a recording of the May 2, 2013, CCH, however, CD 3 is completely blank and CD 4 is a continuation of testimony from a witness. The file indicates that there was no court reporter and the file does not contain a transcript, or 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 **NEW HAMPSHIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3232.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge