

APPEAL NO. 141380  
FILED AUGUST 28, 2014

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 13, 2014, in Lufkin, Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the injury sustained on [date of injury], was caused by the appellant/cross-respondent's (claimant) attempt to unlawfully injure another person, thereby relieving the respondent/cross-appellant (carrier) of liability for compensation; (2) because the carrier is relieved from liability, the claimant did not sustain a compensable injury on [date of injury]; and (3) because the claimant did not sustain a compensable injury, she did not have disability as a result of the alleged injury.

The claimant appealed all of the hearing officer's determinations based on sufficiency of the evidence. The carrier responded urging affirmance. Also, the carrier specifically cross-appealed the hearing officer's findings of fact that the claimant sustained injuries and was unable to obtain and retain employment at wages equivalent to her pre-injury wages, as a result of the incident on [date of injury].<sup>1</sup> The appeal file does not contain a cross-response from the claimant.

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 one compact disc (CD). The CD lists a recording as being 1 hour, 20 minutes, and 51 seconds long. However, the CD only contains static and no audible arguments or testimony. 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

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<sup>1</sup> With regard to the disability finding, the hearing officer's Finding of Fact No. 6 states that "[a]s a result of the injuries sustained in the altercation [the] [c]laimant was unable to obtain and retain employment at wages equivalent to her pre-injury wage from January 11, **2013**, through January 15, 2014." (Emphasis added). We note that the hearing officer found that the beginning date of disability, January 11, 2013, is a date prior to the date of injury of [date of injury].

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.**

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Veronica L. Ruberto  
Appeals Judge

CONCUR:

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Carisa Space-Beam  
Appeals Judge

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Margaret L. Turner  
Appeals Judge