

APPEAL NO. 152243
FILED JANUARY 8, 2015

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 September 10, 2015, in Beaumont, Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the appellant (claimant) sustained a compensable injury on (date of injury); (2) the claimant did not have disability resulting from the compensable injury at any time through the date of the CCH; and (3) the respondent (carrier) has not waived the right to contest compensability of the claimed injury by not timely contesting the injury in accordance with Section 409.021.

The claimant appealed, disputing the hearing officer's determination that he did not have disability resulting from the compensable injury. The claimant argued that the evidence supported a determination that the claimant had disability from December 12, 2014, through the date of the CCH. The respondent (carrier) responded, urging affirmance of the disputed disability determination.

The hearing officer's determinations that the claimant sustained a compensable injury on (date of injury), and that the carrier has not waived the right to contest compensability of the claimed injury by not timely contesting the injury in accordance with Section 409.021 were not appealed and have become final pursuant to Section 410.169.

DECISION

Reversed and remanded for reconstruction of the record.

The parties stipulated that the claimant sustained a compensable injury on (date of injury), in the form of upper respiratory irritation and that the carrier did not waive the right to contest compensability of the claimed injury.

Section 410.203(a)(1) requires the Appeals Panel to consider the record at the CCH. The appeal file contains a compact disc (CD) recording of the CCH. The CD contains a recording of the preliminary matters, opening arguments as well as direct and cross-examination of the claimant. The hearing officer was asking the claimant questions and the claimant was responding when the recording abruptly stopped. The appeal 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 who presided

over the September 10, 2015, CCH, if possible, 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 **FIRST LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES CO.
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Carisa Space-Beam
Appeals Judge