

APPEAL NO. 950158

Pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), a contested case hearing was held in (city), Texas, on November 18, 1994, with a decision being rendered on January 6, 1995, (hearing officer) presiding as hearing officer. She determined that the respondent (claimant) sustained a repetitive trauma injury in the course and scope of her employment on (date of injury), that she timely reported it and that she suffered disability. The appellant (carrier) appeals urging that the hearing officer's determinations that the claimant sustained a work-related repetitive trauma injury and that the date of injury was (date of injury), were against the great weight and preponderance of the credible evidence and that there was no finding of fact to support a conclusion of law that the claimant timely reported the claim. No response has been filed.

DECISION

Reversed and remanded.

Section 410.203 of the 1989 Act provides that the Appeals Panel shall consider the "record developed at the contested case hearing." No tape recordings or transcript of the contested case hearing accompanied the file in this case. Repeated inquiries by the Appeals Panel for the tapes or a transcript of the proceeding have proven futile. Consequently, without any record of the proceeding, a decision on the merits cannot be made and a remand for reconstruction of the record becomes necessary. Texas Workers' Compensation Commission Appeal No. 941399, decided December 1, 1994; Texas Workers' Compensation Commission Appeal No. 941132, decided October 4, 1994.

The decision and order of the hearing officer are reversed and the case is remanded for another hearing or construction of the record satisfactory to all parties and the hearing officer. 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 Workers' Compensation Commission's division of hearings, pursuant to Section 410.202. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Robert W. Potts
Appeals Judge