

APPEAL NOS. 002643
AND 002698

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 October 19, 2000. The issues at the CCH were whether the respondent/cross-appellant (claimant) sustained a compensable injury on or about _____; whether the compensable injury of _____, was a producing cause of the claimant's lumbar spine condition diagnosed as chronic low back pain after _____; whether the claimant sustained disability; and whether the respondent (carrier no. 2), was relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001.

The hearing officer made no findings of fact other than to enter the parties' stipulations into the section marked "Findings of Fact." The hearing officer entered conclusions of law that the compensable injury of _____, was a producing cause of the lumbar spine condition diagnosed as chronic low back pain after _____; that the claimant did not sustain a compensable injury while in the course and scope of employment on or about _____; that because the claimant did not sustain a compensable injury, there was no disability; and carrier no. 2 was relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001.

The claimant appealed the adverse determinations upon the grounds of sufficiency of the evidence and specifically contended that the case should be remanded back to the hearing officer to make findings of fact which could support the conclusions of law found in the decision and order. The appellant/cross-respondent (carrier no. 1), appealed the adverse determination that the claimant's compensable injury of _____, was a producing cause of the chronic low back pain after _____. Carrier no. 1 contended that since the _____ injury was diagnosed as a back strain and given a 0% impairment rating and that because the claimant had contended he had sustained another back injury in _____ then in _____ another back injury (the subject of this appeal) the evidence was insufficient to support the conclusion of law entered by the hearing officer. The appeals files do not contain a response from carrier no. 2.

DECISION

Reversed and remanded.

After review of the record and argument of the parties on appeal, we agree that the matter should be remanded to the hearing officer to enter findings of fact. The hearing officer must enter specific findings based upon the evidence adduced at the CCH. Section 410.168(a) provides that the hearing officer shall issue a written decision that includes: (1) findings of fact and conclusions of law; (2) a determination of whether benefits are due; and (3) an award of benefits due, if any.

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 Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

Kathleen C. Decker
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Kenneth A. Huchton
Appeals Judge