

APPEAL NO. 130960
FILED JUNE 3, 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 March 18, 2013, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the appellant's (claimant) injury sustained on [date of injury], does not include the right elbow (lateral epicondylitis and ulnar nerve entrapment); (2) the claimant reached maximum medical improvement (MMI) on October 11, 2011; and (3) the claimant's impairment rating (IR) is eight percent. The claimant appealed the hearing officer's extent of injury, MMI and IR determinations. The respondent (carrier) responded, urging affirmance.

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 contains one compact disc (CD). The CD recording is blank. The file indicates that there was no court reporter and the 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 for reconstruction of the CCH record. See Appeals Panel Decision (APD) 060353, decided April 12, 2006.

Pursuant to Section 410.203(c), the Appeals Panel may not remand a case more than once. Given that we are remanding this case for reconstruction of the record, we have reviewed the documentary evidence, the hearing officer's decision, and the appeal and the response with regard to the extent of injury, MMI and IR issues in dispute.

We note that the hearing officer's decision and order states the parties stipulated that the claimant's compensable injury includes right carpal tunnel syndrome (CTS) and trigger finger of the right small finger on the right hand. Furthermore, we note that evidence shows that the designated doctor, [Dr. O], examined the claimant on January 11, 2012, and determined that the claimant reached MMI on October 11, 2011, and assigned an eight percent IR. The hearing officer states in her decision that Dr. O assigned an eight percent IR "for [CTS]." As previously mentioned, the hearing officer's decision states that the parties stipulated that the compensable injury includes both conditions of: (1) right CTS; and (2) trigger finger of the right small finger on the right hand. We note that the hearing officer adopted Dr. O's certification of MMI/IR which only rated the claimant's right CTS. See APD 130185, decided March 21, 2013 (where the entire compensable injury was not rated the certification of MMI and IR cannot be

adopted); see *a/so* APD 110267, decided April 19, 2011, and APD 043168, decided January 20, 2005.

We reverse and remand this case to the hearing officer for reconstruction of the record. On remand, the hearing officer is to: (1) reconstruct the record; and (2) make findings of fact, conclusions of law, and a decision and order on the issues of extent of injury, MMI, and IR consistent with this decision.

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