

APPEAL NO. 091551
FILED DECEMBER 28, 2009

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 8, 2009. In (Docket No. 1), the hearing officer resolved the disputed issues by deciding that: (1) the appellant/cross-respondent (claimant) did not sustain a compensable injury on _____; (2) respondent 1/cross-appellant (carrier 2) is not relieved of liability under Section 409.002 because of the claimant's failure to timely notify the employer pursuant to Section 409.001; and (3) because the claimant did not sustain a compensable injury on _____, he did not have disability. In (Docket No. 2), the hearing officer resolved the disputed issue by deciding that the compensable injury of _____, does not extend to include a herniated nucleus pulposus (HNP) at L2-3 with severe lumbosacral radiculopathy and instability at L2-3.

The claimant appealed the hearing officer's determinations on compensability, disability and extent of injury in Docket No. 1. The claimant also appealed Conclusion of Law No. 6 which was the extent-of-injury determination in Docket No. 2. Carrier 2 responded, urging that the compensability and disability determinations be affirmed. The appeal file does not contain a response from respondent 2 (carrier 1). Carrier 2 cross-appealed the hearing officer's determination that the carrier is not relieved of liability under Section 409.002 because of the claimant's failure to timely notify the employer pursuant to Section 409.001 in Docket No. 1. The appeal file does not contain a response from the claimant. The appeal file does not contain a response from carrier 1 to either the claimant's appeal or carrier 2's cross-appeal.

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 CCH was recorded on one compact disc. The first 23 minutes, 45 seconds of the recording are inaudible. The appeal file does not indicate that a court reporter was present and the file does not contain a transcript or other recording of the proceeding. Consequently, we remand the case 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 1 is **CAMDEN FIRE INSURANCE ASSOCIATION** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

The true corporate name of the insurance carrier 2 is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RON O. WRIGHT, PRESIDENT
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge