

APPEAL NO. 011260
FILED JULY 12, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 27, 2001. With respect to the issues before him, the hearing officer determined that the appellant (claimant) sustained a compensable injury on _____, and that he had disability beginning September 1, 2000, and ending September 25, 2000. On appeal, the claimant urges that the determination that disability ended September 25, 2000, is against the great weight and preponderance of the evidence. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

At issue in this case is whether the hearing officer erred in finding that the claimant received a release to full duty on September 25, 2000, and that the period of disability ended on September 25, 2000. Disability is defined as the inability to obtain and retain employment at wages equivalent to the preinjury wage due to the compensable injury. Section 401.011(16). Disability is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact the hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. The hearing officer's determination that the claimant had disability beginning September 1, 2000, and ending September 25, 2000, is supported by the claimant's testimony, evidence from the physical therapist who treated the claimant and, additionally, evidence from a physician who examined the claimant on September 25, 2000. The claimant himself testified that he worked full duty from September 25, 2000, to January 3, 2001, when he sustained another injury. Nothing in our review of the record demonstrates that the hearing officer's disability determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust.

Accordingly, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Philip F. O'Neill
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge