

APPEAL NO. 011573
FILED AUGUST 21, 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 June 25, 2001. The hearing officer determined that (1) (employer) made a *bona fide* offer of employment to the respondent (claimant) on September 20, 2000; (2) the employer did not make a *bona fide* offer of employment to the claimant on October 9, 2000; (3) the employer made a *bona fide* offer of employment to the claimant on October 10, 2000; (4) the claimant had disability resulting from the compensable injury sustained on _____, beginning November 21, 2000, and continuing through the date of the hearing; and (5) the claimant's average weekly wage (AWW) is \$688.67. The appellant (carrier) appeals the disability determination on sufficiency grounds. No response was filed by the claimant. The hearing officer's *bona fide* offer and AWW determinations were not appealed and are, therefore, final.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant had disability from November 21, 2000, through the date of the hearing. Disability is a question of fact to be determined by the hearing officer. Texas Workers' Compensation Commission Appeal No. 000303, decided March 29, 2000. There was conflicting evidence presented with regard to this issue. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination that the claimant did sustain disability is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(carrier)** and the name and address of its registered agent for service of process is

(Company)
(Address)
(City), Texas

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge