

APPEAL NO. 012136
FILED OCTOBER 16, 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 (CCH) was held on August 16, 2001. The hearing officer determined that the appellant (claimant) sustained a compensable mid-back injury on _____, and that he had disability from the compensable injury from March 29, 2001, continuing through June 7, 2001. The claimant appealed the period of disability, arguing that no doctor has released him to work and that his disability continued up through the date of the CCH. The respondent (carrier) replied, and urges that the hearing officer's determinations be affirmed.

DECISION

Affirmed.

Disability means the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). The determination as to an employee's disability is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 92147, decided May 29, 1992. The only issue appealed in this case is the duration of the period of disability. The evidence presented to the hearing officer raised a factual issue of whether the claimant had disability, and there was ample evidence supporting the hearing officer's decision that the claimant did not have disability after June 7, 2001. The hearing officer noted that "photographs of Claimant taken on June 8, 2001, show him engaged in vigorous activity, mowing and trimming a yard. His body posture and mechanics are inconsistent with the amount of pain and limitations claimed, and so I cannot find disability after that date."

We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility of the evidence for that of the hearing officer.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C/O BARBARA SACHSE
9020 N. CAPITAL OF TEXAS HIGHWAY, SUITE 555
AUSTIN, TEXAS 78759.**

Michael B. McShane
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge