

APPEAL NO. 012153
FILED OCTOBER 24, 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 August 9, 2001. With respect to the issues before him, the hearing officer determined that the appellant (claimant) had disability, as a result of her _____, compensable injury, "beginning _____, and continuing through December 17, 1999, and at no other time thereafter through the date of the [hearing]"; and that the claimant had good cause for failing to attend the required medical examination of either May 25 or 28, 2001. In her appeal, the claimant argues that the hearing officer's determination that she did not have disability from December 18, 1999, through the date of the hearing is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance. The carrier did not appeal the hearing officer's determination that the claimant had good cause for failing to attend the required medical examination and that determination has, therefore, become final pursuant to Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not have disability from December 18, 1999, through the date of the hearing, as a result of her _____ compensable injury. That issue presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence on the disability issue. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer was not persuaded that the claimant sustained her burden of proving that she was unable to obtain and retain employment at her preinjury wage because of her compensable injury for the period following December 18, 1999. Nothing in our review of the record reveals that the hearing officer's disability determination is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **FIREMAN'S FUND INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY C. LEADERER
1999 BRYAN STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge