

APPEAL NO. 012508
FILED DECEMBER 3, 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 September 24, 2001. The hearing officer determined that the respondent (claimant) had disability from October 31, 2000, through July 11, 2001, as a result of the compensable injury on _____. The appellant (carrier) appeals the determination on sufficiency grounds and requests reversal to give the carrier an opportunity to continue discovery to fully develop the disability issue. No response was filed by the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant had a compensable (right foot and lower back) injury on _____. The claimant had foot surgery in August 1999, was released to light duty in March 2000, had a second foot surgery September 2, 2000 and was incarcerated from September 27, 2000 to October 27, 2000. At issue is whether the claimant had disability from October 31, 2000, through July 11, 2001.

On October 31, 2000, a doctor said the claimant was "temporarily disabled." The claimant subsequently began treating with a chiropractor, who took the claimant off work altogether and the claimant had a third foot surgery on April 27, 2001. The hearing officer notes that there are no other medical records regarding the claimant's progress until he was certified to be at MMI on July 30, 2001. In view of the claimant's testimony and work restrictions from the claimant's treating doctors, we conclude that hearing officer's decision is supported by the evidence and is not 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, 176 (Tex. 1986).

As stated above, the carrier requests reversal so that it may have an opportunity to continue discovery to fully develop the disability issue. The carrier points out that the hearing officer did not issue subpoenas it had requested. We note, however, the carrier did not reurge its request for subpoenas at the hearing nor did it move for a continuance of the hearing for further discovery. Additionally, upon review of the evidence, we cannot conclude that the hearing officer abused her discretion in denying the carrier's request for subpoenas.

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **ZURICH NORTH AMERICA** and the name and address of its registered agent for service of process is

**GARY SUDOL, ZURICH NORTH AMERICA
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge