

APPEAL NO. 012513
FILED NOVEMBER 29, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on October 1, 2001, the hearing officer the respondent/cross-appellant (claimant) includes post-concussion syndrome, the claimant's head, the claimant's brain, blackouts, blurred vision, and occipital neuralgia or dizziness but does not include a thoracic fracture at T9 or T12; that the employer did not tender a bona fide offer of employment to the claimant; and that due to her compensable injury of _____, for the periods of December 6, 2000, to January 1, 2001, and February 14, 2001, to July 24, 2001, the only periods at issue, the claimant has had disability from December 6, 2000, to December 31, 2000, only. The appellant/cross-respondent (carrier) has appealed the determinations of the injury (except the thoracic fracture findings), bona fide offer of employment, and disability on evidentiary sufficiency grounds. The claimant has also appealed, contending that the evidence established both that her compensable injury includes a thoracic fracture and that she also had disability from February 14, 2001, to July 24, 2001. The parties filed responses.

DECISION

Affirmed.

The claimant testified that on _____, while carrying a very heavy piece of a _____ with coworkers, she slipped, twisted, and fell to the floor, striking the back of her head and briefly losing consciousness; that she had immediate leg numbness, pain all over, and a large bump on the back of her head; and that after being seen at the emergency room, she was treated by a number of doctors. The claimant's testimony and the medical evidence, including the June 14, 2001, report of the doctor appointed by the Texas Workers' Compensation Commission to evaluate the claimant's injuries, sufficiently support the hearing officer's findings concerning the extent of the injuries and they are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

Concerning the bona fide offer of employment issue, the claimant testified that she lives in City A and that the job site where she was injured was in City A; that the job offered by the employer was in City B, a driving distance of 45 minutes to one hour; and that a doctor had told her not to drive because she experienced "blackouts" after the head injury. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 129.6(c) (Rule 129.6(c)) provides that a Work Status Report (TWCC-73) shall be included with the employer's written offer of modified duty. Rule 129.6(h) provides that "[t]he Commission will find an offer to be a bona fide offer if it is reasonably geographically accessible, and meets the requirements of subsections (b) and (c) of this section." The employer's written offer, introduced by the

carrier, is not accompanied by a TWCC-73. The claimant's testimony sufficiently supports the finding that the employment offered was not geographically accessible. Pool; King.

As for the disability finding, based on the claimant's testimony concerning the circumstances of the cessation of her employment with a car rental agency on February 14, 2001, the hearing officer's finding that she did not have disability after that date is sufficiently supported by the evidence. Pool; King.

We affirm the decision and order of the hearing officer.

The corporate name of the insurance carrier is **GULF INSURANCE GROUP** and the name and address of its registered agent for service of process is

**CARMEN ESTRADA
CRAWFORD AND COMPANY
505 EAST HUNTLAND DRIVE
AUSTIN, TEXAS 78761.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge