

APPEAL NO. 013128
FILED JANUARY 23, 2002

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 December 14, 2000; May 3, 2001; July 24, 2001; and November 5, 2001. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) had disability from February 12, 2000, through February 15, 2000, and that the claimant did not have disability from February 16, 2000, through November 5, 2001. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant had the burden to prove that he has had disability as defined by the 1989 Act. Texas Workers' Compensation Commission Appeal No. 012593, decided December 13, 2001. Conflicting evidence was presented on the disputed disability issue. The hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer noted in his decision that he did not find the claimant to be credible. As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision is supported by sufficient evidence and is not 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 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**PAUL HENRY VAN WAGONER
1100 JUPITER ROAD, SUITE 121
PLANO, TEXAS 75074.**

Robert W. Potts
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Chris Cowan
Appeals Judge