

APPEAL NO. 020100  
FILED FEBRUARY 28, 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, 2001. The hearing officer resolved the disputed issue by concluding that the appellant (claimant) had disability from January 16 through March 5, 2001, and from June 19 through July 17, 2001. The claimant appealed a single finding of fact arguing that there was no evidence in the record to support the finding and, further, that the finding was gratuitous and unnecessary. The appeals file does not contain a response from the respondent (carrier). Neither party appealed the hearing officer's determination that the claimant had disability for the stated periods and that determination has become final pursuant to Section 410.169.

DECISION

Affirmed as modified.

Finding of Fact No. 38 reads as follows:

38. Claimant returned to work on July 17, 2001, at an amount not less than his preinjury average weekly wage.

The claimant has appealed this finding arguing that no evidence in the record supports the finding. The claimant testified that he returned to work light duty from September of 2000, until the middle of January, 2001. However, he did not testify that he returned to work on July 17, 2001, in any capacity. The claimant testified that his treating doctor has not yet returned him to work. The claimant was the only person to give testimony at the hearing and no documents were introduced into evidence that reflected the claimant returned to work on July 17, 2001. Thus, as the claimant contends, there is no evidence in the record to support the hearing officer's determination that the claimant returned to work on July 17, 2001. In addition, we note that the issue of whether the claimant had disability after July 17, 2001, was not before the hearing officer in that the only issue before the hearing officer was framed in terms of whether the claimant had disability for the periods from January 16 to March 5, 2001, and from June 19 to July 17, 2001. Consequently, we reform the hearing officer's decision by striking Finding of Fact No. 38 from the decision.

As so modified, the hearing officer's decision and order are affirmed.

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

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL STREET, SUITE 2900  
DALLAS, TEXAS 75201.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Edward Vilano  
Appeals Judge