

APPEAL NO. 021046  
FILED JUNE 12, 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 April 8, 2002. The hearing officer determined that the appellant (claimant) sustained a compensable injury on \_\_\_\_\_ (all dates are 2001 unless otherwise noted), that the compensable injury "extends to and includes respiratory allergy but not a cervical sprain/strain," and that the claimant had disability for one day on \_\_\_\_\_.

The claimant appeals the extent-of-injury issue not extending to the cervical spine because "common sense indicates that the cause of the injury is the Claimant's work" and that the claimant's "disability continues so long as there is no bona fide offer of work" that does not include painting. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

Issues of injury and disability usually involve questions of fact for the hearing officer to resolve. Section 410.165(a). Disability is defined as the inability because of a compensable injury to obtain and retain employment at the preinjury wage. Section 401.011(16). In this case, the claimant was sent to the company doctor on \_\_\_\_\_, was released to return to work, and did in fact work, until September 5. The evidence further indicated that the claimant subsequently worked at two jobs similar to his preinjury job at wages equal to or greater than his preinjury employment. Bona fide offer of employment was not an issue in this case.

After review of the record before us and the complained-of determinations, we have concluded that there is sufficient support for the hearing officer's decision. 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 **SERVICE LLOYD'S INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JOSEPH KELLEY-GRAY, PRESIDENT  
6907 CAPITAL OF TEXAS HIGHWAY NORTH  
AUSTIN, TEXAS 78755.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Roy L. Warren  
Appeals Judge