

APPEAL NO. 021767  
FILED AUGUST 30, 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 June 7, 2002. The hearing officer determined that the appellant (claimant) is not entitled to change treating doctors; that the claimant did not have disability from November 2 through June 7, 2001; and that because the claimant did not have disability for those periods, adjustment of postinjury earnings is not necessary. The claimant appeals and the respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

We review a decision of approval on change of treating doctors on an abuse of discretion standard. In determining whether the hearing officer has abused his or her discretion, the Appeals Panel looks to see whether the hearing officer acted without reference to any guiding rules or principles. Texas Workers' Compensation Commission Appeal No. 951943 decided January 2, 1996; Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). The hearing officer determined that the claimant requested to change treating doctors for an improper purpose in that she sought to obtain a medical report restricting her from any work. The hearing officer stated that his review of a surveillance videotape of the claimant revealed abilities grossly disparate with the claimant's allegations. The video was taken a day after the claimant's initial visit, to a chiropractor whom she wished to have as her new treating doctor. At that initial visit she complained of the highest level of pain possible; yet, the video reveals a person acting in no apparent discomfort just a day later. The video also shows the claimant in a football stadium, stomping the foot she allegedly injured. We note that the claimant does not address the surveillance video in her appeal.

The claimant's complaint that the hearing officer made no determination regarding a bona fide offer of employment from the employer is without merit because the hearing officer determined there was no disability and therefore no need to order an adjustment to postinjury earnings.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer reviewed the record and resolved what facts were established. We conclude that the hearing officer's determinations are sufficiently supported by the record and are 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).

We affirm the hearing officer's decision and order.

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

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

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Roy L. Warren  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge