

APPEAL NO. 021804
FILED SEPTEMBER 4, 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 (CCH) was held on June 26, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) has not had disability and that the claimant's average weekly wage (AWW) is \$616.35. The claimant appealed the disability determination. No response was received from the respondent (carrier). There is no appeal of the AWW determination.

DECISION

The hearing officer's decision is affirmed.

It is undisputed that the claimant sustained a compensable back injury on _____; that after the injury he continued to work for the employer at his regular job and at his preinjury wage until March 6, 2002; and that he has been under work restrictions issued by his doctor. The claimant had the burden to prove that he had disability as defined by Section 401.011(16). There was conflicting evidence presented at the CCH regarding why the claimant was not working after March 6, 2002. The hearing officer resolved the conflicts in the evidence by determining that the claimant's unemployment after March 6, 2002, was not caused by the claimant's compensable injury, but instead was due to the claimant's refusal to continue his employment with the employer after he was assigned a new supervisor on that date. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it 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 **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge