APPEAL NO. 021812
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 was held on June 20, 2002. The hearing officer determined that the respondent (claimant) had disability from _____, through March 4, 2002.

The appellant (self-insured) appealed, contending that the claimant's unemployment during the pertinent time period was due to his termination and not the compensable injury, and that had the claimant not been terminated the self-insured would have accommodated the claimant's light-duty restrictions. The claimant responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable low back injury on _____. The claimant apparently worked for two days and then failed to call in and was terminated for "no call/no show" on _____, the same day that he reported the injury. In evidence are medical reports and a Work Status Report (TWCC-73) releasing the claimant to light duty with certain lifting restrictions. The self-insured's human resources manager conceded that if an applicant applied for a job with the claimant's restrictions he would in all likelihood not be hired, but that the claimant still being an employee, the self-insured would have accommodated the claimant's restrictions.

Whether the claimant's unemployment was due to the termination or the inability to obtain and retain employment at the preinjury wage because of the compensable injury was a factual determination for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconstistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Robert W. Potts
Appeals Judge

_____
Margaret L. Turner
Appeals Judge