

APPEAL NO. 022708  
FILED DECEMBER 5, 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 October 1, 2002. The hearing officer determined that (1) the appellant (claimant) sustained a compensable injury on \_\_\_\_\_; (2) the claimed injury did not occur while the claimant was in a state of intoxication as defined in Section 401.013, so the respondent (carrier) is not relieved from liability on that basis; (3) the claimant had disability from November 30 through December 4, 2001; and (4) the carrier did not waive the right to contest compensability of the claimed injuries by not timely contesting the injuries in accordance with Section 409.021. The claimant appeals the disability and waiver determinations on sufficiency of the evidence grounds. The carrier urges affirmance. The hearing officer's injury and intoxication determinations were not appealed and are, therefore, final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in reaching the complained-of determinations. The claimant contends that disability did not end on December 4, 2001, but continued through the date of the hearing. With regard to the waiver issue, the claimant argues that the carrier failed to use due diligence in investigating the claimed injuries and, therefore, was not entitled to reopen the issue of compensability and assert additional grounds for dispute-i.e., that the claimed injuries were preexisting. These were questions of fact 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)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are 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).

The decision and order of the hearing officer are affirmed.

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

**DENISE BLOCKBOURN  
12225 GREENVILLE AVENUE  
DALLAS, TEXAS 75243.**

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Edward Vilano  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Margaret L. Turner  
Appeals Judge