

APPEAL NO. 022895
FILED JANUARY 2, 2003

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 October 18, 2002. The hearing officer determined that the "compensable injury of _____", includes an injury to the left ankle consisting of edema of the talus and synovitis with a small cartilaginous lesion and that the respondent (claimant) had disability from April 5, 2002, through the date of the CCH.

The appellant (carrier) appealed, referencing evidence that believes supports position and asserting that the hearing officer's decision is against the great weight of the evidence. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant, a scaffold builder, sustained a compensable left ankle injury on _____. The carrier accepted a left ankle strain/sprain. The claimant continued to work drawing his preinjury wage, although the parties disputed whether he was doing light-duty office work or regular duties, until he was laid off on March 10, 2002. The claimant saw a doctor in Mexico on March 20, 2002, and a doctor in the United States on April 5, 2002, when the United States doctor took the claimant off work. The claimant underwent arthroscopic surgery on his left ankle on July 31, 2002. The postoperative diagnosis included "synovitis with small cartilaginous lesion." The carrier argued that there was no causal connection between the compensable injury and the postoperative diagnosis and that the postoperative diagnosed condition was an ordinary disease of aging.

The evidence was in conflict. Whether the claimed diagnoses were part of the compensable injury (actually a question more appropriately addressed by the medical review division) and whether the claimant's unemployment after March 10, 2002, was due to his compensable injury or being laid off, presented 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). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what fact 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 her province as the fact finder in resolving the conflicts and inconsistencies 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 **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Elaine M. Chaney
Appeals Judge