

APPEAL NO. 022953
FILED JANUARY 7, 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 15, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable "cervical, thoracic, and mid back" injury while lifting bags of cement for the employer and had disability from April 29 through July 26, 2002. The hearing officer also determined that the claimant did not have disability from July 27, 2002, through the date of the CCH.

The appellant (carrier) appealed, attacking the claimant's credibility and the sufficiency of the evidence to support the hearing officer's decision. The claimant responds urging affirmance.

DECISION

Affirmed.

The claimant, a temporary employment agency employee, testified that he injured his "whole back," the first day on the job. Whether the pain the claimant said he felt lifting bags of cement was continuous, or went away and got worse that evening, is unclear. The claimant was eventually diagnosed with a cervical, thoracic, and lumbar strain. The hearing officer found that disability ended at the last doctor visit. The carrier contests the hearing officer's decision based on a lack of credibility of the claimant, pointing to the fact that the claimant was injured on his first day on the job, the claimant's criminal history, and other factors affecting the claimant's credibility. However, as the carrier noted in its closing, the hearing officer is the "finder of fact and judge of the credibility of the witnesses."

The hearing officer found the claimant sufficiently credible and although another fact finder might not have done so, that is not a sound basis for us to reverse the hearing officer's decision. Salazar, et al. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.). There was conflicting evidence presented at the hearing on the issues. The hearing officer weighed the credibility and inconsistencies in the evidence and the hearing officer's determination on the issues is 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).

Accordingly the hearing officer's decision and order are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge