

APPEAL NO. 023077  
FILED JANUARY 16, 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 was held on November 1, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable repetitive trauma injury with a date of injury of \_\_\_\_\_, and that the claimant had disability resulting from the injury from January 31, 2002, through the date of the hearing. The appellant (carrier) appealed, arguing that the hearing officer applied the wrong standard to the evidence and that there was insufficient evidence to support the determinations of the hearing officer. The claimant responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable repetitive trauma injury and that he had disability from January 31, 2002, through the date of the hearing. The claimant had the burden of proof on both issues and each issue presented a question of fact for the hearing officer to resolve. There was conflicting evidence on the injury and disability issues. The hearing officer is the sole judge of the weight and the credibility to be given the evidence. Section 410.165(a). The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant and she was acting within her province as the fact finder in so doing. Nothing in our review of the record reveals that the challenged determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We find no merit in the assertion that the hearing officer applied the incorrect legal standard in this case. The hearing officer's discussion demonstrates that she recognized that there was a worsening of the claimant's low back condition following the 2001 baseball season with the employer. Thus, even though the hearing officer did not make findings specifically addressing an aggravation theory, it is apparent that she applied the proper standard in evaluating the evidence and in making her compensability determination.

The hearing officer's decision and order are affirmed.

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

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Terri Kay Oliver  
Appeals Judge

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Robert W. Potts  
Appeals Judge