

APPEAL NO. 030042
FILED FEBRUARY 10, 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 December 5, 2002. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) compensable injury of _____, extends to and includes a closed head injury, cognitive and non-cognitive disorders, mood disorder, post-concussive syndrome, and post-traumatic seizures; that the _____, compensable injury does not extend to or include post-traumatic stress disorder; that the claimant had disability from February 12 to March 16, 2001; and that the claimant did not have disability from March 16, 2001, through the date of the CCH. The claimant appeals the hearing officer's determination that he did not have disability from March 16, 2001, through the date of the CCH. The respondent's (carrier) response requests affirmance and asserts that the claimant's appeal was not timely filed with the Texas Workers' Compensation Commission (Commission). There is no appeal of the hearing officer's determinations on the issue of the extent of the compensable injury.

DECISION

The hearing officer's decision is affirmed.

Applying Sections 410.202(a) and (d) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §§ 102.5(d) and 143.3(c) (Rules 102.5(d) and 143.3(c)), the claimant was deemed to have received the hearing officer's decision on December 22, 2002, which was the fifth day after it was mailed to the claimant, and the claimant had until January 16, 2003, to file his appeal with the Commission, which was the 15th day after the deemed date of receipt, excluding Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code. The claimant's appeal was timely filed with the Commission on January 7, 2003.

The claimant had the burden to prove that he has had disability, which is defined in Section 401.011(16) as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Conflicting evidence was presented on the disability issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge