

APPEAL NO. 030166
FILED FEBRUARY 24, 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 October 21, 2002, and November 20, 2002. The hearing officer determined that (1) the appellant (claimant) sustained a compensable injury on _____; and (2) the claimant had disability from July 3 through August 27, 2002. The claimant appeals these determinations on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

COMPENSABLE INJURY

The hearing officer did not err determining that the claimant sustained a compensable injury on _____. In Findings of Fact Nos. 2 through 4, the hearing officer found that the claimant sustained a lumbar strain in the course and scope of his employment on _____. The claimant appeals, asserting that he also sustained compensable injuries to his neck and right elbow and that the hearing officer erred in failing to address these claimed injuries. We note that the issue of extent of injury was not before the hearing officer. Additionally, although evidence was presented with regard to the claimed neck and right elbow injuries, our review of the record does not indicate that the issue was actually litigated. In absence of a disputed issue regarding the extent of the claimed injury, the hearing officer's decision cannot be read to specifically limit the compensable injury to include only the low back. See Texas Workers' Compensation Commission Appeal No. 020127, decided March 4, 2002, and cases cited therein. Accordingly, we find no basis to reverse the hearing officer's injury determination.

DISABILITY

The hearing officer did not err in determining that the claimant had disability from July 3 through August 27, 2002, the date on which the claimant's lumbar strain injury reportedly resolved. The claimant essentially contends that disability continued through the date of the hearing in this matter, when considering the totality of the claimed injuries. Because the full extent of the compensable injury has not yet been determined, we read the hearing officer's determination as addressing the period of disability with regard only to the compensable low back injury. In view of the evidence presented, we conclude that the hearing officer's disability determination with regard to the low back injury 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). Our affirmance of the hearing officer's disability determination does

not preclude the claimant from seeking disability for a period beyond August 27, 2002, once the remaining claimed injuries, if any, are determined to be compensable.

The decision and order of the hearing officer are affirmed.

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

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Edward Vilano
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Chris Cowan
Appeals Judge