

APPEAL NO. 030269  
FILED MARCH 11, 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 January 9, 2003. With regard to the disputed issues at the CCH, the hearing officer determined that the respondent (claimant) reached maximum medical improvement (MMI) on December 24, 2001, and that the claimant had disability resulting from an injury sustained on \_\_\_\_\_, from January 26 through December 24, 2001. The appellant (carrier) appeals, and argues that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be manifestly wrong or unjust. The claimant did not respond.

DECISION

Affirmed.

The MMI report of the designated doctor chosen by the Texas Workers' Compensation Commission (Commission) has presumptive weight and the Commission shall base its determination of MMI on the designated doctor's report unless the great weight of the medical evidence is to the contrary. Section 408.122(c). Whether the party challenging a designated doctor's report has produced the great weight of other medical evidence contrary to the report and whether the presumption afforded to the report is rebutted are questions of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 950561, decided May 22, 1995. As an appellate-reviewing tribunal, the Appeals Panel will not upset the challenged factual findings of a hearing officer unless they are 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not find them so in this case.

The hearing officer did not err in determining that the claimant had disability as a result of the compensable injury from January 26 through December 24, 2001. Disability is defined as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Whether the claimant's compensable wrist injury was a cause of the claimant's inability to obtain and retain employment at preinjury wages was a question of fact for the hearing officer to resolve. There is sufficient evidence to support the hearing officer's determination that the claimant did have disability. Cain, supra.

We affirm the decision and order of the hearing officer.

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

**BARRY E. CROMBAR  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

---

Michael B. McShane  
Appeals Panel  
Manager/Judge

CONCUR:

---

Daniel R. Barry  
Appeals Judge

---

Edward Vilano  
Appeals Judge