

APPEAL NO. 030762
FILED MAY 14, 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 February 13, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) sustained a compensable injury on _____, and had disability from July 15 to August 15, 2002, and from November 9 to December 12, 2002. The claimant appealed, arguing that the great weight and preponderance of the evidence, including the testimony of Dr. R, established that disability ended on February 12, 2003, rather than December 12, 2002. The appeal file does not contain a response from the respondent (carrier). The determination that the claimant sustained a compensable injury on _____, was not appealed and has become final. See Section 410.169.

DECISION

Affirmed as reformed.

The claimant appeals the ending date of the second time period of disability found by the hearing officer, arguing that nothing happened on December 12, 2002, that would have stopped disability. The hearing officer noted in her Statement of the Evidence that "based on the claimant's credible testimony and the records and testimony of [Dr. R], the claimant established that she sustained a compensable injury to her upper and lower back on _____, and that she had disability from 7/15/02 to 8/15/02, and then from 11/9/02 to 12/12/02." However, the hearing officer noted that Dr. R returned the claimant to full duty at the time of his reexamination of the claimant on February 12, 2003. The medical records in evidence reflect that the claimant saw Dr. R several dates in December of 2002, but do not reflect that the claimant saw Dr. R on December 12, 2002. Further, the evidence reflects that Dr. R signed "Disability/Return to Work, School Certificate[s]" which noted that the claimant was "totally incapacitated" from December 6, 2002, through January 17, 2003.

Upon reading the hearing officer's decision and order in its entirety, we find that Finding of Fact No. 3, Conclusion of Law No. 4 and the decision contain clerical errors. We reform Finding of Fact No. 3 to read: Due to the compensable injury of _____, Claimant was unable to obtain or retain employment at wages equivalent to her preinjury wage from 07/15/02 to 08/15/02 and then from 11/9/02 to 02/12/03. We reform Conclusion of Law No. 4 to read: Claimant had disability as a result of the compensable injury of _____, from 07/15/02 to 08/15/02 and from 11/09/02 to 02/12/03. We additionally reform the decision to reflect that the ending date of the second period of disability found by the hearing officer was 02/12/03.

The decision and order are affirmed as reformed.

The true corporate name of the insurance carrier is **ZURICH NORTH AMERICA** and the name and address of its registered agent for service of process is

**LEO MALO
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge