

APPEAL NO. 030773
FILED MAY 12, 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 March 3, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____; that the appellant (carrier) waived the right to contest compensability; and that the claimant had disability from July 20, 2000, through April 1, 2001. The parties stipulated that the claimant's average weekly wage is \$516.67. The carrier appealed the hearing officer's injury, carrier waiver, and disability determinations on sufficiency of the evidence grounds. The claimant responded, urging affirmance.

DECISION

Affirmed.

We have reviewed the complained-of determinations and find that the hearing officer's injury and disability determinations are supported by sufficient evidence to be affirmed. The disputed issues of injury and disability presented questions of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

With regard to the waiver issue, the evidence reflects that the carrier received its first written notice of injury on February 1, 2001, and filed its Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) on June 20, 2002. Section 409.021(a) requires that a carrier either begin payment of benefits or dispute compensability within seven days of first receiving written notice of an injury or waive its right to dispute compensability. See Continental Casualty Company v. Downs, 81 S.W.3d 803 (Tex. 2002). The evidence sufficiently supports the hearing officer's determination that the carrier waived the right to contest compensability. The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

The hearing officer's decision and order are affirmed.

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.**

Veronica Lopez
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge