

APPEAL NO. 031051
FILED JUNE 17, 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 April 10, 2003. The hearing officer determined that the respondent/cross-appellant (claimant) sustained a compensable injury on _____, and had disability beginning on January 15 through February 14, 2003, but not from February 15, 2003, through the date of the hearing. The appellant/cross-respondent (carrier) appealed the injury and disability determinations. The claimant responded, urging affirmance of the hearing officer's determination that she sustained a compensable injury and had disability. The claimant appealed the hearing officer's determination that her disability ended on February 14, 2003, asserting that it continued through the date of the hearing. The carrier responded, asserting that the claimant did not have any disability.

DECISION

Affirmed in part and reversed and remanded in part.

The claimant testified that she was a phone operator and used a headset, which was plugged into a battery pack. The claimant testified that on _____, she received an electrical shock in her right ear, which has caused dizziness, hearing loss, pain, and sound sensitivity. The claimant testified that her symptoms are ongoing and that she is unable to return to her preinjury employment due to her compensable injury. The claimant submitted medical evidence from her treating doctor to support her injury and disability claim. The carrier submitted evidence to support its assertion that the claimant did not sustain a compensable injury and therefore did not have disability.

The issue of whether the claimant sustained a compensable injury presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence. Nothing in our review of the record reveals that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb that determination on appeal.

The hearing officer determined that the claimant had disability as a result of the _____, compensable injury beginning on January 15, 2003, and continuing through February 14, 2003. The hearing officer further determined that the claimant did not have disability beginning on February 15, 2003, through the date of the hearing.

The hearing officer gave no rationale as to why she selected February 14, 2003, as the ending date of disability other than to say the claimant failed to prove disability beginning February 15, 2003. We have reviewed the record in its entirety, and find no evidence in the record to support the hearing officer's ending date for disability. If the claimant had disability on February 14, 2003, we find no evidence that disability ended the following date. Therefore we remand this case back to the hearing officer for the sole purpose of determining the claimant's period of disability. On remand, the hearing officer is directed to review the record and determine a period of disability that is supported by some evidence.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF ILLINOIS** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge