

APPEAL NO. 031279  
FILED JULY 8, 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 April 14, 2003. The hearing officer determined that the respondent (claimant) had disability from March 24 through May 4, 2002, and from October 19, 2002, through the date of the CCH, and that the claimant did not have good cause for failing to attend an examination with the designated doctor on October 8, 2002, and as a result of his failure is not entitled to temporary income benefits from October 24 through November 4, 2002, when he attended the examination. The no good cause to attend the designated doctor examination issue has not been appealed and has become final pursuant to Section 410.169.

The appellant (carrier) appeals the disability determinations as being against the great weight of the evidence, citing other evidence which might indicate another result. The file does not contain a response from the claimant.

DECISION

Affirmed.

It is undisputed that the claimant, an auto mechanic, sustained a compensable low back injury on \_\_\_\_\_. The claimant was seen by both the employer's doctor and his own doctor on March 22, 2002, and was released to light duty. The claimant testified that the employer did not have light duty available and went out of business on April 6, 2002. The claimant returned to work for another employer on May 4, 2002, and worked as an auto mechanic for that employer until October 18 or 19, 2002, when his employment was terminated and the claimant's then treating doctor took him off work.

There was conflicting evidence and some of the evidence would indicate that the claimant did not have disability for the periods found by the hearing officer. However, the 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. The hearing officer could find disability based on the claimant's testimony alone. Gee v. Liberty Mutual Fire Insurance Company, 765 S.W.2d 394 (Tex. 1989). As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Margaret L. Turner  
Appeals Judge