

APPEAL NO. 031439  
FILED JULY 24, 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 May 13, 2003. The hearing officer decided that the respondent (claimant) had disability from February 3 through October 7, 2002, and at no other time as of the date of the CCH. The appellant (carrier), appealed the disability determination on sufficiency of the evidence grounds. The claimant urges affirmance.

DECISION

Affirmed as reformed.

The parties agreed that the claimant sustained a compensable lumbar spine injury on \_\_\_\_\_. The claimant returned to light-duty work, due to restriction from his compensable injury, at his preinjury wage until he was terminated on February 2, 2002, for absenteeism and sleeping on the job. The claimant was subsequently taken off work by his treating physician. The medical evidence shows that the claimant remained under release from work through October 7, 2002, when he was returned to full-work status by his treating doctor. The claimant testified that he returned to work with another employer on October 14, 2002.

Disability means the inability to obtain and retain employment at wages equivalent to the preinjury wage because of a compensable injury. Section 401.011(16). We have said that a light-duty or conditional work release is evidence that disability continues. Texas Workers' Compensation Commission Appeal No. 91045, decided November 21, 1991. The hearing officer did not err in reaching the complained-of disability determination. The determination involved 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)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations 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).

While not specifically appealed, we note that the hearing officer's Decision and Order contains a typographical error. In Finding of Fact No. 1D, the hearing officer stated that the parties stipulated the claimant sustained a compensable injury on "\_\_\_\_\_". This should read "\_\_\_\_\_." We reform the hearing officers' decision to correct this error.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** 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.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Robert W. Potts  
Appeals Judge