

APPEAL NO. 031448
FILED JULY 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 May 13, 2003. The hearing officer determined that: (1) the appellant (claimant) did not sustain a compensable injury on _____; (2) the claimant did not have disability; and (3) the injury extends to include a diabetic wound infection to the right leg. The claimant appeals the injury and disability determinations on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed as reformed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____, and did not have disability. The injury 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 injury determination is 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 (Tex. 1986). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability. Section 401.011(16).

Although not raised by the parties, we reform the hearing officer's extent-of-injury determination to clarify that the diabetic wound infection to the right leg is not compensable, in view of the determination that the claimant did not sustain an injury in the course and scope of his employment on _____. The hearing officer's extent-of-injury determination is reformed to state: "The claimed injury includes a diabetic wound infection to the right leg."

The decision and order of the hearing officer are affirmed, as reformed.

The true corporate name of the insurance carrier is **FIDELITY & GUARANTY INSURANCE** and the name and address of its registered agent for service of process is

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

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge