

APPEAL NO. 031497
FILED JULY 25, 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 16, 2003. The hearing officer determined that the appellant's (claimant) _____, compensable injury includes a right fractured tibia and that he had disability on September 23 and again from October 1 through October 9, 2002. The claimant appeals the disability determination, arguing that the period of disability should be extended to include the period from October 10, 2002, through the date of the hearing. The appeal file contains no response from the respondent (carrier).

DECISION

Affirmed.

Disability is a question of fact to be determined by the hearing officer. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Ins. Co., 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). In this instance, the hearing officer was not persuaded that the claimant sustained his burden of proving that he had disability beyond October 9, 2002. Nothing in our review of the record demonstrates 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 (Tex. 1986)

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**LEO MALO
ZURICH NORTH AMERICA
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 72521.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge