

APPEAL NO. 031720
FILED AUGUST 19, 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 28, 2003. The hearing officer determined that the date of the injury is _____; that the respondent (claimant) sustained a compensable injury on _____; that the compensable injury extends to and includes the current condition of the claimant's low back; that he had disability from June 21, 2002, and continuing; that the appellant (carrier) did not adequately and sufficiently contest compensability of the claimed injury; and that the carrier waived its right to contest compensability of the claimed injury by not timely contesting it in accordance with Sections 409.021 and 409.022. The carrier appeals these determinations. The claimant urges affirmance of the hearing officer's decision.

DECISION

Affirmed as reformed.

The disputed issues in this case involved factual questions 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 resolves the conflicts and inconsistencies in the evidence as were present in this case (Garza v. Commercial Insurance Co. of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). Nothing in our review of the record indicates that the hearing officer's decision 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, 176 (Tex. 1986). However, because a hearing officer does not have the authority to determine the issue of disability beyond the date of the hearing (Texas Workers' Compensation Commission Appeal No. 931049, decided December 31, 1993), the hearing officer's decision is reformed to reflect that the claimant had disability from June 21, 2002, through the date of the hearing.

We note that the carrier argues that the hearing officer erred in determining that because the carrier waived the right to dispute compensability of the claimed injury, it also waived the right to dispute the extent of the injury. However, the hearing officer made no such finding. The decision and order indicate that the hearing officer did not base the extent determination on the waiver determination. As such, we cannot agree that the hearing officer's extent-of-injury determination is legally incorrect.

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

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

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

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge