

APPEAL NO. 031859
FILED AUGUST 28, 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 June 11, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable (back) injury on _____, and that the claimant had disability from March 5, 2003, through the date of the CCH.

The appellant (carrier) appeals, contending that the claimant had not sustained an injury as defined in Section 401.011(26) in an incident on _____; that the claimant did not have disability; and that the claimant's unemployment after January 10, 2003, was due to a suspension for a positive drug screen. The claimant responds, urging affirmance.

DECISION

Affirmed.

It is relatively undisputed that the claimant, an electrical helper, slipped in a muddy rut in the course and scope of employment on _____. The carrier contends that the claimant did not sustain an injury as defined in Section 401.011(26) in that incident. Also relatively undisputed is that the claimant continued to work his full regular duties, with at least two complaints of back pain, until December 30, 2002. What happened then, and whether the claimant had sought earlier medical attention is disputed. The claimant was sent to the employer's doctor who diagnosed a coccyx sprain and returned the claimant to light duty on December 30, 2002. Whether the claimant worked light duty or regular duty is unclear. It is undisputed that the claimant was suspended on January 10, 2003, for a positive drug screen that was performed on December 30, 2002. Although the claimant may have received some physical therapy, the claimant's treating doctor noted his first examination to be March 5, 2003. An MRI performed on March 13, 2003, has an impression of a disc bulge at L4-5 and disc herniation at L5-S1. The hearing officer, in her Statement of the Evidence discusses some of the contradictory and conflicting evidence.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. 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).

The decision and order of the hearing officer are affirmed.

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

**CINDY GHALIBAF
7610 STEMMONS FREEWAY, SUITE 350
DALLAS, TEXAS 75247.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge