

APPEAL NO. 032168
FILED SEPTEMBER 22, 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 July 14, 2003. The hearing officer determined that the respondent (claimant) had disability from September 5, 2002, to the date of the hearing as a result of his _____, compensable injury. The appellant (carrier) appealed on sufficiency of the evidence grounds. The claimant responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable lumbar injury and strain to the groin on _____. Whether the claimant's lumbar injury and strain to the groin were a cause of the claimant's inability to obtain and retain employment at preinjury wages was a question of fact for the hearing officer to resolve. The hearing officer did not err in determining that the claimant had disability from September 5, 2002, through the date of the hearing. We have previously recognized that although the fact that a claimant resigns, retires, or is involuntarily terminated is not dispositive on the issue, such a factor can be considered in resolving a disability issue. Texas Workers' Compensation Commission Appeal No. 970089, decided February 28, 1997; Texas Workers' Compensation Commission Appeal No. 94238, decided April 11, 1994. There was conflicting evidence on the disputed issue. The hearing officer is the sole judge of the weight and the credibility to be given the evidence. Section 410.165(a). The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant and she was acting within her province as the fact finder in so doing. The September 5, 2002, report of Dr. W and the claimant's testimony support the finding of the hearing officer on the disputed issue. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. 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 **HARTFORD INSURANCE COMPANY OF THE MIDWEST** 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.**

Margaret L. Turner
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge