

APPEAL NO. 032217
FILED OCTOBER 2, 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 August 6, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and had disability from January 19, 2002, through the date of the CCH. The appellant (carrier) appealed, arguing that the overwhelming weight of the evidence was contrary to the determinations to the hearing officer. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented on the disputed issues. With the evidence in conflict it is the hearing officer as the sole judge of the weight and credibility of the evidence (Section 410.165(a)) who resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established. St. Paul Fire & Marine Ins. Co. v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true regarding the evidence of disability and whether the claimant's inability to obtain and retain employment was due to the compensable injury (see Section 401.011(16)) or the claimant's termination of employment. Termination is a factor the hearing officer can consider in a disability determination but it does not compel a determination that there is no disability. See, e.g., Texas Workers' Compensation Commission Appeal No. 980003, decided February 11, 1998; Texas Workers' Compensation Commission Appeal No. 992669, decided January 11, 2000; and Texas Workers' Compensation Commission Appeal No. 992027, decided October 29, 1999.

The hearing officer noted that the claimant was credible and consistent with his rendition of the event and the problems he has had since the injury. We conclude that the hearing officer's determinations that the claimant sustained a compensable injury on _____, and that he has disability from January 19, 2002, through the date of the CCH are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge