

APPEAL NO. 032626
FILED NOVEMBER 12, 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 September 9, 2003. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) did not have disability for the period of March 5 through June 2, 2003. The claimant appealed, arguing that the disability determination was contrary to the overwhelming weight of the evidence presented at the CCH; and further, that the hearing officer failed to apply the correct legal standard. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The record reflects that the parties stipulated that the claimant sustained a compensable lumbar spine injury on _____. The sole issue before the hearing officer was whether the claimant had disability resulting from the compensable injury of _____, from March 5 through June 2, 2003. It is undisputed that the claimant was terminated from his employment on February 1, 2003, that the claimant had been working light duty at the time of his termination, and that the claimant had back surgery on June 3, 2003.

The hearing officer specifically found that the claimant returned to work in a light-duty capacity, earned his preinjury wage until he was terminated on February 1, 2003, for reasons unrelated to his physical restrictions pertaining to the _____, injury, and that had the claimant not been terminated, he would have continued to earn his preinjury wage for the period of time up to June 3, 2003, when he had back surgery. The claimant had the burden of proving that he had disability for the period at issue. The claimant argues that the hearing officer failed to apply the correct legal standard in making his determination and that the determination was against the overwhelming evidence presented at the CCH. Although some Appeals Panel decisions have spoken in terms of whether a decision to terminate a claimant's employment was made for cause, it should not be understood that the hearing officer is resolving an employment law claim for wrongful termination. Rather, the hearing officer is to decide whether the claimant's employment was terminated for a reason unrelated to the injury. If, as in this case, the hearing officer determines that the termination decision was made for reasons unrelated to the compensable injury, then the hearing officer can, but does not have to, find that the disability has ended. That is, the hearing officer can find that the claimant's discharge from a light-duty job with the employer is the reason for the claimant's inability to obtain and retain employment at his preinjury wage, as opposed to the compensable injury being the cause. See Texas Worker's Compensation Commission Appeal No. 022831, decided December 13, 2002. Our review of the record reveals that the hearing officer's determination that the claimant did not have disability for the claimed period is

supported by sufficient evidence and is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse the challenged determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge