

APPEAL NO. 032971
FILED DECEMBER 17, 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 October 1, 2003. With respect to the issues before him, the hearing officer determined that the employer tendered a bona fide offer of employment to the appellant (claimant) on June 13, 2003, and that the claimant had disability, as a result of his compensable injury, from February 28 to June 13, 2003. In his appeal, the claimant challenges the hearing officer's determination that his disability ended on June 13, 2003. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's disability ended on June 13, 2003. The questions of whether the employer tendered a bona fide offer of light duty to the claimant and whether he had disability were questions of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). In this instance, the hearing officer was not persuaded that the claimant was precluded from climbing all stairs as the treating doctor stated in the amended Work Status Report (TWCC-73) dated June 30, 2003. The hearing officer noted that in the surveillance videotape, the claimant is shown walking up and down steps at his home several times and bending repeatedly. The hearing officer was free to consider that evidence in deciding the weight and credibility to be given to the amended TWCC-73 and the prohibition against climbing stairs contained in that report. Because the hearing officer did not believe that the claimant was restricted from climbing stairs, he likewise did not err in determining that the claimant's action of not returning to the light-duty job because it required him to climb stairs, and the employer's termination of the claimant's employment for job abandonment, ended the claimant's disability. Nothing in our review of the hearing officer's disability determination demonstrates that it is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse the challenged 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 **AMERICAN CASUALTY INSURANCE COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge