

APPEAL NO. 033122
FILED JANUARY 12, 2004

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 November 10, 2003. The hearing officer determined that the respondent's (claimant) compensable (left inguinal hernia) injury of _____, includes a failed hernia repair but does not include bilateral or unilateral testicular strangulation, and that the claimant had disability from March 30, 2002, through the date of the CCH. (The appellant (carrier) has paid temporary income benefits through June 3, 2003.)

The carrier appeals, basically on sufficiency of the evidence grounds. The claimant files a response, urging affirmance.

DECISION

Affirmed.

The claimant was employed as an electrician and the parties stipulated that he sustained a compensable injury on _____. The claimant continued to work until March 30, 2002. The claimant saw a number of doctors, as set out in the hearing officer's Statement of the Evidence. The claimant had left inguinal hernia repair surgery on July 11, 2002. It is relatively undisputed that initially, after the surgery, the claimant appeared to be doing well. In evidence are some reports releasing the claimant to return to work in early August 2002, but subsequently other reports take the claimant off work and apparently the claimant began to complain of increasing pain. The claimant's treating surgeon continued to state that the claimant was "completely healed" but other doctors were of the opinion that the claimant had a failed hernia repair. For some reason three designated doctors evaluated the claimant and all stated that at the time of their examinations (September 12, 2002, November 18, 2002, and March 26, 2003), the claimant was not at maximum medical improvement). Only one doctor thought that the claimant had "possible entrapment of the left inguinal cord" (the claimant based his contention testicular strangulation on that opinion). The hearing officer commented on the rationale for his decision in the Statement of the Evidence. The medical evidence was conflicting and subject to differing interpretations.

The question of extent of injury and disability presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence has established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the

challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

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

**JOSEPH KELLY-GRAY, PRESIDENT
6907 CAPITOL OF TEXAS HIGHWAY NORTH
AUSTIN, TEXAS 78755.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge