

APPEAL NO. 033148  
FILED JANUARY 25, 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 August 8, 2003, and continued with the record closing on October 28, 2003. The parties resolved two disputed issues by stipulating that the respondent (claimant) sustained a compensable back injury on \_\_\_\_\_, and that the appellant (carrier) did not timely dispute compensability of the \_\_\_\_\_, injury. With regard to the sole issue before the hearing officer, he determined that the claimant had disability from August 14, 2002, and continuing through the date of the CCH. The carrier appealed, arguing that the hearing officer's disability determination is against the great weight and preponderance of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The only issue is whether the claimant has had disability, which is defined in Section 401.011(16) as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Conflicting evidence was presented at the CCH on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Apparently the hearing officer was persuaded by the evidence that the claimant met his burden of proof on the disability issue. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and is 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).

The decision and order of the hearing officer are affirmed.

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

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

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Margaret L. Turner  
Appeals Judge