

APPEAL NO. 033236  
FILED FEBRUARY 6, 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 was held on December 2, 2003. With respect to the issue before him, the hearing officer determined that the appellant (claimant) had disability, as a result of his \_\_\_\_\_, compensable injury, from July 16 to September 22, 2003. In his appeal, the claimant essentially argues that the hearing officer's determination that he did not have disability from September 23, 2003, through the date of the hearing is against the great weight of the evidence. 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 did not have disability from September 23, 2003, through the date of hearing. The claimant had the burden of proof on the disability issue and it presented a question of fact for the hearing officer to resolve. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this instance, the hearing officer simply was not persuaded that the claimant sustained his burden of proving that he had disability after September 22, 2003. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record demonstrates that the challenged determination is 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 that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); 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 **FIDELITY & GUARANTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
701 BRAZOS, SUITE 1050  
AUSTIN, TEXAS 78701.**

---

Elaine M. Chaney  
Appeals Judge

CONCUR:

---

Gary L. Kilgore  
Appeals Judge

---

Robert W. Potts  
Appeals Judge