

APPEAL NO. 033261  
FILED FEBRUARY 9, 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 November 18, 2003. The hearing officer determined that the appellant (claimant) sustained a compensable injury on \_\_\_\_\_, and that the claimant had disability from May 16 through July 10, 2003, as a result of his injury of \_\_\_\_\_, but not from May 6 through May 15, 2003, or from July 11 through November 17, 2003. The claimant appealed the hearing officer's disability determination and contended that the claimant had disability from July 11 through November 17, 2003. The respondent (carrier) responded, urging affirmance. The hearing officer's injury determination was not appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed.

The claimant had the burden to prove that he had disability. Section 401.011(16) defines "disability" as the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The issue of disability presented a question of fact for the hearing officer to resolve.

Conflicting evidence was presented on the disputed issue. Although the hearing officer found the claimant had disability from May 16 through July 10, 2003, as a result of his compensable injury, she was not persuaded that the claimant had disability from May 6 through May 15, 2003, or from July 11 through November 17, 2003. 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. The claimant contends on appeal that "the hearing officer's decision that the claimant was not unable to obtain and retain preinjury wages from July 11, 2003 through November 17, 2003 is not supported by the evidence...."

The hearing officer noted that the claimant's testimony that he could not work after July 11, 2003, was not persuasive and that his evidence was sufficient to support disability only through July 10, 2003. In considering all the evidence in the record, we cannot agree that the finding of the hearing officer is so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

We affirm the decision and order of the hearing officer.

According to the information provided by the carrier, the true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Chris Cowan  
Appeals Judge