

APPEAL NO. 033293  
FILED FEBRUARY 4, 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 19, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_; that the claimant "had disability resulting from an injury sustained on \_\_\_\_\_, from July 16, 2002, through September 07, 2002." The appellant (carrier) appealed, asserting that the claimant and his evidence were not credible and that the hearing officer's determinations are against the great weight of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed as reformed.

We reform the hearing officer's Finding of Fact No. 5, Conclusion of Law No. 4, and decision to reflect that the claimant had disability from July 16, 2003 (not July 16, 2002), through September 7, 2003 (not September 7, 2002). The claimed injury did not occur until \_\_\_\_\_, and any reference to disability in 2002 related to the injury in 2003 is a clear clerical error.

The claimant testified that he injured his low back when his foot slipped while he was flipping a five-door extension. The claimant testified that he was uncertain which foot slipped; that he wasn't sure how much the extension weighed, but that it could have been 60 pounds; and that he did not fall to the ground. The carrier presented testimony and evidence to show that the injury could not have occurred as described by the claimant because the floor he was standing on had a non-slip grout applied to it. The carrier pointed to inconsistencies in the claimant's stories, and asserted that his evidence was not credible. The hearing officer specifically commented that the claimant was a poor historian, but stated that "there are more reasons to believe the credibility of [the] [c]laimant than there are to discount him as making up the claim."

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 had established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer could believe all, part, or none of the testimony of any witness including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, 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 as reformed herein.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**ROBERT PARNELL  
AIG CLAIMS SERVICE  
8144 WALNUT HILL LANE, SUITE 1600  
DALLAS, TEXAS 75231.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge