

APPEAL NO. 040042  
FILED MARCH 1, 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 17, 2003. The hearing officer determined that the respondent/cross-appellant (claimant) sustained a compensable low back strain and left calf scrape injury on \_\_\_\_\_; that the claimant did not have disability; and that the appellant/cross-respondent (carrier) had not waived the right to contest compensability of the claimed injury. The carrier waiver issue has not been appealed and therefore the hearing officer's determination on that issue has become final. Section 410.169.

The carrier appeals the injury determination essentially on sufficiency of the evidence grounds. The claimant appeals the no disability determination, contending that the claimant had a light-duty release and medical evidence to support his position. The claimant also filed a response to the carrier's appeal. The file does not contain a cross-response from the carrier.

DECISION

Affirmed.

The claimant, a truck driver/warehouse-man, testified that on \_\_\_\_\_, he sustained a low back injury lifting a bundle of molding and a scrape on his left calf when he dropped the bundle. There was conflicting evidence presented but some statements and the medical reports would support the determination of a compensable injury.

Regarding disability, the claimant worked at least part of the day on April 25, 2003, and it is undisputed that the claimant attended and danced at his birthday party on April 26, 2003. There was conflicting evidence regarding the claimant's moving of his household goods/residence either on May 10, May 12, and/or May 15, 2003. Further, the claimant testified that the employer continued to pay his regular wages for "about a month" after his date of injury. The hearing officer summarized the evidence in some detail and summarized the parties' respective positions in her Statement of the Evidence but did not indicate what evidence she relied on in determining that the claimant did not have disability. Nonetheless, the hearing officer's determination on disability is supported by sufficient evidence.

Conflicting evidence was presented on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. 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, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Michael B. McShane  
Appeals Panel  
Manager/Judge