

APPEAL NO. 040060
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 9, 2003. The hearing officer determined that: (1) the compensable injury of _____, includes a herniated disc at L4-5, but does not include a herniated disc at L3-4; and (2) the respondent (claimant) had disability from May 1, 2003, through the date of the hearing. The appellant (carrier) appeals the disability determination, asserting that the claimant's inability to obtain and retain employment for this period was related to the noncompensable injury at L3-4. The claimant did not file a response. The hearing officer's extent-of-injury determinations were not appealed and have become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant had disability from May 1, 2003, through the date of the hearing. The determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence. (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the medical evidence, the hearing officer found that the claimant was unable to obtain and retain employment for the disputed period due to a recurrence of symptoms related to her compensable L4-5 disc injury. We cannot conclude that the hearing officer's disability determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer is 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
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge