

APPEAL NO. 040104
FILED MARCH 8, 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 16, 2003. The hearing officer determined that the _____, compensable injury of respondent (claimant) extends to osteochondral defects and osteoarthritic changes in the left knee, and that claimant had disability from January 14, 2003, to the date of the hearing. Carrier appealed these determinations on sufficiency grounds and also notes that the issue regarding disability from January 14 through March 25, 2003, had already been addressed in a prior hearing. Claimant responded that the Appeals Panel should affirm the hearing officer's determination regarding extent of injury and regarding the period of disability from March 26, 2003, through the date of the hearing. Claimant agrees that the hearing officer erred in determining that claimant had disability from January 14 through March 25, 2003, noting that that period of disability had been at issue in a prior hearing and had been finally adjudicated by another hearing officer in a prior decision and order.

DECISION

We affirm in part and reverse and render in part.

Carrier contends that the issue of extent of injury was adjudicated in a prior decision and order in this case. However, the hearing officer did not address extent, which was not an issue in that case. The hearing officer made a finding that claimant had joint effusion, but did not limit the _____, injury to that condition.

We have reviewed the complained-of determinations regarding extent of injury and the period of disability from March 26 through December 16, 2003, and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are supported by the record and are not 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).

Both carrier and claimant agree that the hearing officer erred in determining that claimant had disability from January 14 through March 25, 2003. The record reflects that that period of disability had been at issue in a prior hearing and had been finally adjudicated by another hearing officer in a prior decision and order. Therefore, we must reverse that portion of the disability determination.

We affirm that part of the hearing officer's decision and order that determined that the compensable injury extends to osteochondral defects and osteoarthritic changes in the left knee, and that claimant had disability from January 14, 2003, to the date of the hearing. We reverse that part of the hearing officer's decision that

determined that claimant had disability from January 14 through March 25, 2003, and render a decision that claimant did not have disability from January 14 through March 25, 2003.

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

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge