

APPEAL NO. 040110  
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 18, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_, and that the claimant had disability from the compensable injury of \_\_\_\_\_, beginning on May 14, 2003, and continuing through September 15, 2003. The appellant (carrier) appeals on sufficiency of the evidence grounds. The claimant responds, urging affirmance.

DECISION

Affirmed as reformed.

The hearing officer did not err in making the complained-of determinations. The determinations involved questions 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)). The carrier made essentially the same arguments on appeal that it made during the hearing concerning the credibility of the claimant. The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are 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).

We note that the hearing officer made a finding of fact that the claimant's disability was "continuing through September 15, 2003." This finding is supported by the evidence that September 15, 2003, was the date that the treating doctor released the claimant to return to work, and by the claimant's testimony that he began to be paid again as of September 16, 2003. Accordingly, we reform Conclusion of Law No. 4 and the Decision paragraph to read "September 15, 2003," instead of "September 14, 2003."

We affirm the decision and order of the hearing officer as reformed.

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

**ROBIN MOUNTAIN  
ACE USA  
6600 EAST CAMPUS CIRCLE DRIVE, SUITE 200  
IRVING, TEXAS 75603.**

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Michael B. McShane  
Appeals Panel  
Manager/Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge