

APPEAL NO. 040187
FILED MARCH 17, 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 (CCH) was held on December 30, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable low back injury on _____, and that the claimant had disability from April 24, 2003, through the date of the CCH. The appellant (carrier) appealed, contending that the hearing officer's decision is contrary to the overwhelming weight of the evidence and is manifestly unjust. The claimant asserts that the evidence supports the hearing officer's decision.

DECISION

Affirmed as reformed herein.

We reform the first sentence of the second paragraph of the hearing officer's discussion of the evidence to reflect that the carrier disputed that any injury took place on _____ (not May 23, 2003).

The claimant testified that he injured his back at work on _____, when he attempted to move a 225-pound tub of molasses onto a pallet on a forklift and the pallet broke. It is undisputed that the claimant had been experiencing back pain a few days before the claimed accident on _____. Whether the claimant injured his back while performing his work activities on _____, as testified to by the claimant was a fact question for the hearing officer to determine from the conflicting evidence presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, the hearing officer's determination that the claimant sustained a compensable low back injury on _____, is supported by the claimant's testimony and by a report of the treating doctor. The hearing officer's disability determination is supported by the claimant's testimony and by work restrictions in evidence. We conclude that the hearing officer's decision is supported by sufficient evidence and that it 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 (Tex. 1986).

As reformed herein, we affirm the hearing officer's decision and order.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge