

APPEAL NO. 040626  
FILED MAY 11, 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 February 18, 2004. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable hernia injury on \_\_\_\_\_, and that she had disability, as a result of her compensable injury, from July 21, 2003, through February 15, 2004. In its appeal, the appellant (carrier) argues that the hearing officer's injury and disability determinations are against the great weight of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable hernia injury on \_\_\_\_\_, and that she had disability from July 21, 2003, to February 15, 2004. Those issues presented 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). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence on the disputed issues and the hearing officer was acting within his province as the fact finder in deciding that the claimant sustained her burden of proof through her testimony and the medical evidence presented. The factors emphasized by the carrier in challenging the injury and disability determinations on appeal are the same factors it emphasized at the hearing. The significance, if any, of those factors was a matter for the hearing officer in resolving the issue before him. Nothing in our review of the record reveals that the challenged determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). The carrier argues that the hearing officer erred in determining that the claimant sustained her burden of proof in light of the statement in his discussion that the "medical evidence as to causation is speculative at best." The carrier's argument is premised upon an incorrect reading of the hearing officer's decision. Although that statement is made by the hearing officer, it is clear that the hearing officer is characterizing the causation opinion offered by the carrier's peer review doctor in support of its assertion that the hernia was caused by the claimant's tubal ligation surgery as speculative. He is not stating that the causation evidence presented by the claimant that the hernia was caused by lifting at work was speculative. We perceive no error.

The hearing officer's decision and order are affirmed.

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

**PRENTICE HALL CORPORATION SYSTEM, INC.  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Chris Cowan  
Appeals Judge