

APPEAL NO. 040791
FILED MAY 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 March 15, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) sustained a compensable injury on _____, and that the claimant only had disability beginning on August 20 and continuing through August 28, 2003, and at no other times. The claimant appealed the disability finding, arguing that the findings and conclusions regarding disability are wholly unsupported by the evidence and are so against the great weight and preponderance of the medical evidence as to be manifestly wrong and unjust. The claimant contends that the hearing officer's Statement of the Evidence contains errors. The respondent (carrier) responded, urging affirmance. The carrier argues that the disability determination is fully supported by the credible evidence regardless of any errors contained in the hearing officer's discussion of the evidence. The determination that the claimant sustained a compensable injury on _____, has not been appealed. The record reflects and the hearing officer specifically found that the carrier withdrew its defense that it is relieved of liability because of the claimant's failure to timely notify her employer of the injury.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant only had disability beginning on August 20 and continuing through August 28, 2003, and at no other times through the date of the CCH. "Disability" is defined as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). The claimant bears the burden of establishing that a compensable injury was a producing cause of her disability. The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they 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); In re King's Estate, 150 Tex. 662, 224 S.W.2d 660 (1951). The hearing officer found that due to the compensable injury of _____, the claimant was only unable to obtain and retain employment at wages equivalent to the preinjury wage beginning August 20 and continuing through August 28, 2003. Notwithstanding any errors that may be contained in the discussion portion of the hearing officer's decision and order, there is sufficient evidence to support the challenged disability determination. A release to return to work dated August 28, 2003, was in evidence, which stated that the claimant could return to work on August

29, 2003, and contained no restrictions. The claimant testified that she returned to work and worked the month of September until she quit. There was evidence that the claimant quit her job because she was being harassed. Although there was conflicting evidence in the record, nothing in our review of the record reveals that the hearing officer's disability determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb the disability determination on appeal. Cain, *supra*.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge