

APPEAL NO. 040903
FILED JUNE 10, 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 April 6, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and that he had disability from May 3, 2002, through December 27, 2002. The appellant (carrier) asserts that the "hearing officer's findings are not based on the evidence before him and the decision is improper" because the decision does not contain a list of admitted exhibits and an acknowledgement or summary of the telephonic testimony of Dr. V. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

Section 410.168(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.16(a) (Rule 142.16(a)) require only that the hearing officer make findings of fact, conclusions of law, determine whether benefits are due, and award benefits. Accordingly, the absence of witness/exhibit lists and summaries of the testimony of each witness are not required in a decision and order. In the present case, the audiotape recording of the hearing proceeding reflects that the hearing officer admitted Carrier's Exhibits A through Q and that Dr. V testified on behalf of the carrier. There is no indication that the hearing officer failed to consider the exhibits or testimony admitted at the hearing. Therefore, we cannot agree that the hearing officer's decision was not based on the evidence or that the decision is improper.

Whether the claimant sustained a compensable injury and had disability were factual questions for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's decision is 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** 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.**

Chris Cowan
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge