

APPEAL NO. 040967
FILED JUNE 15, 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 25, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and that the claimant had disability "beginning October 24, 2003, and continuing." The appellant (carrier) appealed, contending that the evidence is insufficient to support the hearing officer's decision. The claimant asserts that sufficient evidence supports the hearing officer's decision.

DECISION

Affirmed as reformed herein.

The unresolved disputed issues from the benefit review conference were whether the claimant sustained a compensable injury on (alleged date of injury), and whether he had disability resulting from an injury sustained on (alleged date of injury), and if so, for what period(s). The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he had disability as defined by Section 401.011(16). The claimant testified that he was performing his job duties repairing a bulldozer on (alleged date of injury), when a radiator tank fell and hit him on the head. The claimant's work calendar notes for (alleged date of injury), reflect that the radiator tank hit him on the head that day. He worked the next day, _____, and then had a seizure on October 24 and was hospitalized. The claimant's Employee's Notice of Injury or Occupational Disease and Claim for Compensation (TWCC-41) noted a date of injury of (alleged date of injury), when the radiator fell on him, causing a head injury. The claimant's doctor reported that the blow to the head on (alleged date of injury), most likely caused the claimant's intracerebral hemorrhage. The claimant testified regarding his work restrictions due to the head injury. There was conflicting evidence regarding when the employer was told of the claimed work injury. 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. We conclude that the hearing officer's determinations that the claimant sustained a compensable injury and that he has had disability are supported by sufficient evidence and are 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).

We reform the hearing officer's findings of fact, conclusions of law, and decision to reflect that the date of injury was (alleged date of injury) (not _____), and that the claimant has had disability from October 24, 2003, through the date of the CCH, March 25, 2004, as a result of the compensable injury of (alleged date of injury).

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

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

**MR. RUSSELL RAY OLIVER, PRESIDENT
221 WEST 6TH STREET.
AUSTIN, TEXAS, 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Margaret L. Turner
Appeals Judge