

APPEAL NO. 041706
FILED SEPTEMBER 2, 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 June 14, 2004. The hearing officer resolved the disputed issues by determining that the respondent (claimant) is allowed to change treating doctors from Dr. R to Dr. P, and that as a result of the _____, compensable injury, the claimant had disability from January 12, 2004, through the date of the hearing. The appellant (carrier) appeals these determinations. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to change treating doctors. Section 408.022(c) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 126.9(e) (Rule 126.9(e)) provide a list of criteria for approving a change of treating doctors. The hearing officer found that the claimant lost confidence in Dr. R because her condition was not improving and this loss of confidence created a conflict that jeopardized or impaired the doctor patient relationship. In view of the evidence presented, the hearing officer could find that the claimant was entitled to change treating doctors to Dr. P.

Whether the claimant had disability resulting from her compensable injury was a factual question 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 for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). 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 disability determination is 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, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**JAMES H. MOODY II
901 MAIN STREET
DALLAS, TEXAS 75202.**

Chris Cowan
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge